Report on the 2011 General Assembly

March 21, 2011

Bills Passed by the General Assembly

HB 1713 **Presumption against admission to bail; adds to list of crimes committed.**
Introduced by: Tony Wilt | all patrons ... notes | add to my profiles

SUMMARY AS PASSED: (all summaries)

Criminal procedure; presumption against admission to bail. **Adds to the list of crimes charged for which there is a presumption against admission to bail, subject to rebuttal, obstruction of justice where a person threatens bodily harm or force to knowingly attempt to intimidate or impede a witness.**

FULL TEXT

01/10/11 House: Prefiled and ordered printed; offered 01/12/11 11102837D pdf
02/14/11 Senate: Committee substitute printed 11105312D-S1 pdf | impact statement
02/24/11 House: Bill text as passed House and Senate (HB1713ER) pdf | impact statement

HISTORY

01/10/11 House: Prefiled and ordered printed; offered 01/12/11 11102837D
01/12/11 House: Referred to Committee for Courts of Justice
01/14/11 House: Assigned Courts sub: #1 Criminal
01/17/11 House: Subcommittee recommends reporting (9-Y 0-N)
01/19/11 House: Reported from Courts of Justice (22-Y 0-N)
…
01/25/11 House: VOTE: BLOCK VOTE PASSAGE (99-Y 0-N)
…
01/26/11 Senate: Referred to Committee for Courts of Justice
02/04/11 Senate: Assigned Courts sub: Criminal
02/14/11 Senate: Reported from Courts of Justice with substitute (14-Y 0-N)
…
02/16/11 Senate: Passed Senate with substitute (40-Y 0-N)
…
02/18/11 House: Senate substitute agreed to by House 11105312D-S1 (93-Y 0-N)
02/18/11 House: VOTE: ADOPTION (93-Y 0-N)
…

§ 19.2-120. Admission to bail.

Prior to conducting any hearing on the issue of bail, release or detention, the judicial officer shall, to the extent feasible, obtain the person's criminal history.

A. A person who is held in custody pending trial or hearing for an offense, civil or criminal contempt, or otherwise shall be admitted to bail by a judicial officer, unless there is probable cause to believe that:

1. He will not appear for trial or hearing or at such other time and place as may be directed, or

2. His liberty will constitute an unreasonable danger to himself or the public.

B. The judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if the person is currently charged with:

1. An act of violence as defined in § 19.2-297.1;

2. An offense for which the maximum sentence is life imprisonment or death;

3. A violation of § 18.2-248, 18.2-248.01, 18.2-255, or 18.2-255.2 involving a Schedule I or II controlled substance if (i) the maximum term of imprisonment is 10 years or more and the person was previously convicted of a like offense or (ii) the person was previously convicted as a "drug kingpin" as defined in § 18.2-248;

4. A violation of § 18.2-308.1, 18.2-308.2, or 18.2-308.4 and which relates to a firearm and provides for a mandatory minimum sentence;

5. Any felony, if the person has been convicted of two or more offenses described in subdivision 1 or 2, whether under the laws of the Commonwealth or substantially similar laws of the United States;

6. Any felony committed while the person is on release pending trial for a prior felony under federal or state law or on release pending imposition or execution of sentence or appeal of sentence or conviction;

7. An offense listed in subsection B of § 18.2-67.5:2 and the person had previously been convicted of an offense listed in § 18.2-67.5:2 or a substantially similar offense under the laws of any state or the United States and the judicial officer finds probable cause to believe that the person who is currently charged with one of these offenses committed the offense charged;

8. A violation of § 18.2-374.1 or 18.2-374.3 where the offender has reason to believe that the solicited person is under 15 years of age and the offender is at least five years older than the solicited person;

9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the past five years of the instant offense, been convicted three times on different dates of a violation of any combination of these Code sections, or any ordinance of any county, city, or town or the laws of any other state or of the United States substantially similar thereto, and has been at liberty between each conviction;

11. A second or subsequent violation of § 16.1-253.2 or a substantially similar offense under the laws of any state or the United States; ~~or~~

12. A violation of subsection B of § 18.2-57.2*; or*

13. A violation of subsection C of § 18.2-460 charging the use of threats of bodily harm or force to knowingly attempt to intimidate or impede a witness.

9. A violation of § 18.2-46.2, 18.2-46.3, 18.2-46.5, or 18.2-46.7;

10. A violation of § 18.2-36.1, 18.2-51.4, 18.2-266, or 46.2-341.24 and the person has, within the

SB 903 **Violent felony; possession of firearm on school property prohibited, penalty.**
Introduced by: R. Creigh Deeds | all patrons ... notes | add to my profiles

SUMMARY AS PASSED SENATE: (all summaries)

Definition of violent felony; penalty. Removes an "and" in the list of violent felonies to make it clear that a person does not need to be convicted of both § 18.2-308.1 (possession of weapon on school property) and § 18.2-308.2 (possession of firearm by a felon) in order to have the offense qualify as a violent felony for the purpose of the sentencing guidelines. The bill also provides that using a firearm in a threatening manner in a school is the only felony in § 18.2-308.1 that qualifies as a violent felony.

FULL TEXT

01/10/11 Senate: Prefiled and ordered printed; offered 01/12/11 11100683D pdf | impact statement
01/26/11 Senate: Committee substitute printed 11104476D-S1 pdf | impact statement
03/03/11 Senate: Bill text as passed Senate and House (SB903ER) pdf

HISTORY

01/10/11 Senate: Prefiled and ordered printed; offered 01/12/11 11100683D
01/10/11 Senate: Referred to Committee for Courts of Justice
01/12/11 Senate: Assigned Courts sub: Criminal
01/26/11 Senate: Reported from Courts of Justice with substitute (15-Y 0-N)
...
02/02/11 Senate: Read third time and passed Senate (40-Y 0-N)
...
02/07/11 House: Referred to Committee for Courts of Justice
02/07/11 House: Assigned Courts sub: #1 Criminal
02/16/11 House: Subcommittee recommends reporting (9-Y 0-N)
02/21/11 House: Reported from Courts of Justice (22-Y 0-N)
...
02/24/11 House: VOTE: PASSAGE #2 (99-Y 0-N)
...

INTRODUCED

11100683D

SENATE BILL NO. 903

Offered January 12, 2011
Prefiled January 10, 2011

A BILL to amend and reenact § 17.1-805 of the Code of Virginia, relating to definition of violent felony; penalty.

Patron—Deeds

Referred to Committee for Courts of Justice

INTRO

C. For purposes of this chapter, violent felony offenses shall include solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40, 18.2-41, 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1 or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2 or 18.2-55; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1 or 18.2-60.3; any violation of § 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92 or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any violation of subsection B of § 18.2-280; any violation of § 18.2-281, 18.2-286.1, 18.2-289 or 18.2-290; any felony violation of subsection A of § 18.2-282; any violation of subsection A of § 18.2-300; any felony violation of ~~§§~~ 18.2-308.1 ~~and~~ *or* 18.2-308.2; any violation of § 18.2-308.2:1, or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; any violation of subdivision (2) or (3) of § 18.2-355; any violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370 or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3; any second or subsequent offense under ~~§§~~ 18.2-379 ~~and~~*; any violation of* § 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414 or 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1 or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480 or 18.2-485; any violation of § 53.1-203; or any conspiracy or attempt to commit any offense specified in this subsection, and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

controlled substance shall be increased by (i) 200 percent in cases in which the defendant has previously

The proposed change removes two offenses from the list of violent crimes delineated in subsection C of § 17.1-805. Under the proposal, possession of a firearm on school property and a third or subsequent conviction for possessing a weapon other than a firearm on school property would no longer be defined as violent crimes

An Act to amend a
of violent felon

Be it enacted by the General Assembly of Virginia:

C. For purposes of this chapter, violent felony offenses shall include solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40, 18.2-41, 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1 or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2 or 18.2-55; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1 or 18.2-60.3; any violation of § 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-89, 18.2-90, 18.2-91, 18.2-92 or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any violation of subsection B of § 18.2-280; any violation of § 18.2-281, 18.2-286.1, 18.2-289 or 18.2-290; any felony violation of subsection A of § 18.2-282; any violation of subsection A of § 18.2-300; any felony violation of ~~§~~ *subsection C of* § 18.2-308.1 ~~and~~ *or* 18.2-308.2; any violation of § 18.2-308.2:1, or subsection M or N of § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; any violation of subdivision (2) or (3) of § 18.2-355; any violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370 or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any violation of § 18.2-374.3; any second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414 or 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1 or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480 or 18.2-485; any violation of § 53.1-203; or any conspiracy or attempt to commit any offense specified in this subsection, and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent felony

SJ 348 Sex offender registry; Virginia State Crime Commission to study requirements.

Introduced by: Emmett W. Hanger, Jr. | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Study; sex offender registry; report. Directs the Virginia State Crime Commission to study federal requirements regarding Virginia's sex offender registry, examine the effectiveness of the registry in preventing sexual victimization, and determine the feasibility of implementing a tiered system.

FULL TEXT

01/11/11 Senate: Prefiled and ordered printed; offered 01/12/11 11102555D pdf

HISTORY

01/11/11 Senate: Prefiled and ordered printed; offered 01/12/11 11102555D
01/11/11 Senate: Referred to Committee on Rules
01/14/11 Senate: Assigned Rules sub: #1
01/28/11 Senate: Reported from Rules by voice vote
01/31/11 Senate: Reading waived (38-Y 0-N)
02/01/11 Senate: Read second time and engrossed
02/02/11 Senate: Read third time and agreed to by Senate by voice vote
02/07/11 House: Placed on Calendar
02/07/11 House: Referred to Committee on Rules
02/10/11 House: Assigned Rules sub: #3 Studies
02/15/11 House: Subcommittee recommends reporting (5-Y 0-N)
02/17/11 House: Reported from Rules (13-Y 0-N)
02/22/11 House: Taken up
02/22/11 House: Agreed to by House BLOCK VOTE (97-Y 0-N)
02/22/11 House: VOTE: BLOCK VOTE ADOPTION (97-Y 0-N)

11102555D

SENATE JOINT RESOLUTION NO. 348

Offered January 12, 2011
Prefiled January 11, 2011

Directing the Virginia State Crime Commission to study sex offender registry requirements. Report.

Patron--Hanger

Referred to Committee on Rules

WHEREAS, it is important that citizens feel safe from crime in their homes and communities and in addition to assisting law-enforcement, an important purpose of Virginia's sex offender registry is to provide the public with the necessary information to take appropriate safety measures; and

WHEREAS, since 1994 three federal laws have encouraged states to establish Sex Offender Registries or risk the loss of federal funding: the Jacob Wetterling Act, Megan's Law and the Pam Lyncher Act; and

WHEREAS, since 1994 the number of crimes for which registration is required has increased, the information that is required at registration has grown substantially, and public access to information on individual sex offenders has expanded; and

WHEREAS, concerns have been raised about the breadth of registration and whether the breadth of registration makes it difficult to distinguish predatory behavior and whether citizen reliance on the sex offender registry can be misplaced in certain instances; now, therefore be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia State Crime Commission be directed to study sex offender registry requirements. The study shall identify those requirements imposed by the federal government, the extent to which Virginia is in compliance with those requirements, the penalties if Virginia is not in compliance, and the fiscal and human costs of being in compliance.

In conducting its study, the Virginia State Crime Commission shall determine the feasibility of implementing a tiered system and whether a tiered system would better inform the public, whether scarce resources could be better used by concentrating on those who have the greatest risk of reoffending, and whether registration and notification laws are effective methods of reducing sexual victimizations.

Technical assistance shall be provided to the Virginia State Crime Commission by the Department of State Police and the Virginia Criminal Sentencing Commission. All agencies of the Commonwealth shall provide assistance to the Virginia State Crime Commission for this study, upon request.

The Virginia State Crime Commission shall complete its meetings by November 30, 2011, and the Chairman shall submit to the Division of Legislative Automated Systems an executive summary of its findings and recommendations no later than the first day of the 2012 Regular Session of the General Assembly. The executive summary shall state whether the Commission intends to submit to the General Assembly and the Governor a report of its findings and recommendations for publication as a House or Senate document. The executive summary and report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website.

Bills Defeated in the General Assembly

HB 1443 Marijuana; decriminalization of simple possession.

Introduced by: Harvey B. Morgan | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Decriminalization of simple possession of marijuana. **Decriminalizes simple marijuana possession. The bill does not legalize marijuana possession but changes the current $500 criminal fine for simple marijuana possession to a $500 civil penalty, eliminates the 30-day jail sentence, and eliminates the criminal conviction record that would follow a conviction for simple possession. The civil penalties collected would be payable to the Literary Fund. The bill changes none of the penalties for manufacture or distribution of marijuana. The bill continues to require forfeiture of the driver's license and drug screening and education for any minor found to have committed the violation of possession of marijuana and maintains all existing sanctions for all criminal violations involving marijuana.**

FULL TEXT

11/15/10 House: Prefiled and ordered printed; offered 01/12/11 11100220D pdf | impact statement

HISTORY

11/15/10 House: Prefiled and ordered printed; offered 01/12/11 11100220D
11/15/10 House: Referred to Committee for Courts of Justice
01/14/11 House: Assigned Courts sub: #1 Criminal
01/17/11 House: Subcommittee recommends passing by indefinitely by voice vote
02/08/11 House: Left in Courts of Justice

INTRODUCED

11100220D

HOUSE BILL NO. 1443

Offered January 12, 2011
Prefiled November 15, 2010

A BILL to amend and reenact §§ 18.2-250.1, 18.2-251, 18.2-252, and 18.2-259.1 of the Code of Virginia, relating to penalties for simple possession of marijuana.

Patron—Morgan

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-250.1, 18.2-251, 18.2-252, and 18.2-259.1 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.). *The attorney for the Commonwealth or the county, city or town attorney may prosecute such a case. Any violation of this section may be charged by summons.*

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section ~~shall be guilty of a misdemeanor, and be confined in jail not more than thirty days and a fine~~ *is subject to a civil penalty* of not more than $500~~, either or both; any person, upon a second or subsequent conviction of a violation of this section, shall be guilty of a Class 1 misdemeanor~~ *payable to the Literary Fund.*

B. The provisions of this section shall not apply to members of state, federal, county, city or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any *criminal* offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 ~~or to possession of marijuana under § 18.2-250.1~~, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or

HB 1448 **Juvenile court deferral and dismissal; cases ineligible for expungement of records.**

Introduced by: Thomas A. Greason | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

No expungement for juvenile court deferral and dismissal. **Provides that a delinquency or traffic proceeding case that is dismissed in Juvenile and Domestic Relations District Court following the satisfaction of terms and conditions of a deferred judgment is not eligible for expungement. Under current law, a person who has been the subject of such a proceeding who has been found innocent thereof, or for whom such proceeding was otherwise dismissed, may file a motion requesting the destruction of all records pertaining to the charge.**

FULL TEXT

11/22/10 House: Prefiled and ordered printed; offered 01/12/11 11100548D pdf

HISTORY

11/22/10 House: Prefiled and ordered printed; offered 01/12/11 11100548D
11/22/10 House: Referred to Committee for Courts of Justice
01/10/11 House: Assigned Courts sub: #1 Criminal
01/17/11 House: Subcommittee recommends laying on the table by voice vote
02/08/11 House: Left in Courts of Justice

11100548D

HOUSE BILL NO. 1448

Offered January 12, 2011
Prefiled November 22, 2010

A BILL to amend and reenact § 16.1-306 of the Code of Virginia, relating to expungement of juvenile criminal offenses; deferred findings.

Patron--Greason

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-306 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-306. Expungement of court records.

A. Notwithstanding the provisions of § 16.1-69.55, the clerk of the juvenile and domestic relations district court shall, on January 2 of each year or on a date designated by the court, destroy its files, papers and records, including electronic records, connected with any proceeding concerning a juvenile in such court, if such juvenile has attained the age of 19 years and five years have elapsed since the date of the last hearing in any case of the juvenile which is subject to this section. However, if the juvenile was found guilty of an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, the records shall be destroyed when the juvenile has attained the age of 29. If the juvenile was found guilty of a delinquent act which would be a felony if committed by an adult, the records shall be retained.

B. In all files in which the court records concerning a juvenile contain a finding of guilty of a delinquent act which would be a felony if committed by an adult or an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles together with findings of not innocent of other acts, all of the records of such juvenile subject to this section shall be retained and available for inspection as provided in § 16.1-305.

C. A person who has been the subject of a delinquency or traffic proceeding ~~and~~ (i) *who* has been found innocent thereof or (ii) *for whom* such proceeding was otherwise dismissed, may file a motion requesting the destruction of all records pertaining to the charge of such an act of delinquency *or traffic proceeding, except that a case that is dismissed following the satisfaction of terms and conditions of a deferred judgment is not eligible for expungement pursuant to this subsection.* Notice of such motion shall be given to the attorney for the Commonwealth. Unless good cause is shown why such records should not be destroyed, the court shall grant the motion, and shall send copies of the order to all officers or agencies that are repositories of such records, and all such officers and agencies shall comply with the order.

D. Each person shall be notified of his rights under subsections A and C of this section at the time of his dispositional hearing.

E. Upon destruction of the records of a proceeding as provided in subsections A, B, and C, the violation of law shall be treated as if it never occurred. All index references shall be deleted and the court and law-enforcement officers and agencies shall reply and the person may reply to any inquiry that no record exists with respect to such person.

F. All docket sheets shall be destroyed in the sixth year after the last hearing date recorded on the

HB 1463 **Drug charges; expungement of records.**

Introduced by: Onzlee Ware | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Expungement of certain drug charges. **Provides that any person who has been convicted of a charge of possession of marijuana or had a charge of possession of marijuana or other drug discharged and dismissed in accordance with the provisions of § 18.2-251, more than five years prior to his petition for expungement, may file a petition setting forth the relevant facts and requesting expungement of the police records and the court records relating to the charge. The bill adds that the Department of Criminal Justice Services shall maintain a record of the expungement to be made available to any attorney for the Commonwealth upon request.**

FULL TEXT

12/02/10 House: Prefiled and ordered printed; offered 01/12/11 11100293D pdf

HISTORY

12/02/10 House: Prefiled and ordered printed; offered 01/12/11 11100293D
12/02/10 House: Referred to Committee for Courts of Justice
01/12/11 House: Assigned Courts sub: #1 Criminal
01/24/11 House: Subcommittee recommends passing by indefinitely by voice vote
02/08/11 House: Left in Courts of Justice

INTRODUCED

11100293D

HOUSE BILL NO. 1463

Offered January 12, 2011
Prefiled December 2, 2010

A BILL to amend and reenact §§ 18.2-250.1, 18.2-251, and 19.2-392.2 of the Code of Virginia, relating to expungement of marijuana conviction and deferred and dismissed drug charges.

Patron—Ware, O.

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-250.1, 18.2-251, and 19.2-392.2 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section ~~shall be~~ *is* guilty of a misdemeanor, and *shall* be ~~confined~~ *punished by confinement* in jail *for* not more than ~~thirty~~ *30* days and a fine of not more than $500, either or both; any person, upon a second or subsequent conviction of a violation of this section, ~~shall be~~ *is* guilty of a Class 1 misdemeanor. *A conviction under this section is eligible for expungement pursuant to § 19.2-392.2.*

B. The provisions of this section shall not apply to members of state, federal, county, city or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

§ 18.2-251. Persons charged with first offense may be placed on probation; conditions; substance abuse screening, assessment treatment and education programs or services; drug tests; costs and fees; violations; discharge.

Whenever any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant, depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to undergo a substance abuse assessment pursuant to § 18.2-251.01 or 19.2-299.2, as appropriate, and enter treatment and/or education program or

INTRODUCED

HB 1533 **Parole; eligibility for certain inmates otherwise ineligible.**

Introduced by: Algie T. Howell, Jr. | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Parole; eligibility for certain inmates otherwise ineligible. Provides that in the case of a person who is ineligible for parole for a combination of three or more offenses involving murder, rape, or robbery, the Parole Board shall consider a petition for reconsideration of ineligibility for parole if the person (i) was convicted only of robbery, (ii) did not injure or attempt to injure any person, (iii) did not have assistance of counsel in preparing a petition for review of ineligibility previously considered on the merits under this provision, (iv) has been continuously confined for at least 15 years, and (v) has a record of good conduct during confinement. The bill contains technical amendments.

FULL TEXT

12/27/10 House: Prefiled and ordered printed; offered 01/12/11 11101295D
pdf | impact statement

HISTORY

12/27/10 House: Prefiled and ordered printed; offered 01/12/11 11101295D
12/27/10 House: Referred to Committee on Militia, Police and Public Safety
01/24/11 House: Assigned MPPS sub: #2
01/27/11 House: Subcommittee recommends laying on the table by voice vote
02/08/11 House: Left in Militia, Police and Public Safety

INTRODUCED

11101295D

HOUSE BILL NO. 1533

Offered January 12, 2011
Prefiled December 27, 2010

A BILL to amend and reenact § 53.1-151 of the Code of Virginia, relating to parole eligibility for certain inmates otherwise ineligible.

Patron—Howell, A.T.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-151 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-151. Eligibility for parole.

A. Except as herein otherwise provided, every person convicted of a felony and sentenced and committed by a court under the laws of this Commonwealth to the Department of Corrections, whether or not such person is physically received at a Department of Corrections facility, or as provided for in § 19.2-308.1:

1. For the first time, shall be eligible for parole after serving one fourth of the term of imprisonment

B1. Any person convicted of three separate felony offenses of (i) murder, (ii) rape, or (iii) robbery by the presenting of firearms or other deadly weapon, or any combination of the offenses specified in ~~subdivisions~~ *clause* (i), (ii) or (iii) when such offenses were not part of a common act, transaction or scheme shall not be eligible for parole. In the event of a determination by the Department of Corrections that an individual is not eligible for parole under this subsection, the Parole Board may in its discretion, review that determination, and make a determination for parole eligibility pursuant to regulations promulgated by it for that purpose. Any determination of the Parole Board of parole eligibility thereby shall supersede any prior determination of parole ineligibility by the Department of Corrections under this subsection.

In the case of a person whose parole eligibility is determined under this subsection who (a) was convicted only of robbery, (b) did not injure or attempt to injure any person, (c) did not have assistance of counsel in preparing a petition for review of ineligibility previously considered on the merits under this provision, (d) has been continuously confined for at least 15 years, and (e) has a record of good conduct during confinement, the Parole Board shall consider a petition for reconsideration of ineligibility for parole. For purposes of application of this subsection only, the Parole Board, in its discretion, may determine that multiple offenses constitute parts of a common scheme or plan if those offenses occurred within a period of 12 weeks or less.

of times such person has been convicted, sentenced and committed for the purposes of subdivisions 2, 3 and 4 of subsection A. "At liberty" as used herein shall include not only freedom without any legal restraints, but shall also include release pending trial, sentencing or appeal, or release on probation or parole or escape. In the case of terms of imprisonment to be served consecutively, the total time imposed shall constitute the term of the imprisonment; in the case of terms of imprisonment to be

HB 1562 **Home/electronic incarceration; good conduct credits.**

Introduced by: Paula J. Miller | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Good conduct credits; home electronic incarceration. **Requires misdemeanants assigned to home electronic incarceration, unless serving a mandatory minimum sentence, to earn good conduct credit at the rate of one day for each day served if they are participating in work release employment or an educational or other rehabilitative program or due to a medical condition.**

FULL TEXT

01/04/11 House: Prefiled and ordered printed; offered 01/12/11 11102896D pdf

HISTORY

01/04/11 House: Prefiled and ordered printed; offered 01/12/11 11102896D
01/04/11 House: Referred to Committee on Militia, Police and Public Safety
01/24/11 House: Assigned MPPS sub: #3
01/28/11 House: Subcommittee recommends reporting with amendment(s) (4-Y 0-N)
01/28/11 House: Tabled in Militia, Police and Public Safety by voice vote

2011 SESSION

INTRODUCED

11102896D

HOUSE BILL NO. 1562

Offered January 12, 2011
Prefiled January 4, 2011

A BILL to amend and reenact § 53.1-131.2 of the Code of Virginia, relating to good conduct credits; home electronic incarceration.

Patron—Miller, P.J.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-131.2 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established

2. Unless he is serving a mandatory minimum sentence of confinement, each offender sentenced to 12 months or less for a misdemeanor or any combination of misdemeanors shall earn good conduct credit at the rate of one day for each one day served on electronic monitoring and participating in work release employment, educational or other rehabilitative program or due to a medical condition, including all days served while confined in jail prior to conviction and sentencing, in which the offender has not violated the written rules and regulations of the jail. It shall be the responsibility of the jailer in each facility to determine the manner in which these credits may be awarded and to include this information in the written policy mandated by § 53.1-116.

which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of any educational or rehabilitative program in which the offender participates.

B. In any city or county in which a home/electronic incarceration program established pursuant to this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or regional jail, may assign the accused to such a program pending trial if it appears to the court that the accused is a suitable candidate for home/electronic incarceration.

C. *1.* Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender

INTRODUCED

HB 1563 **Good conduct credits; failure to comply with order or decree for support.**

Introduced by: Paula J. Miller | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Failure to comply with order or decree for support; good conduct credits. **Allows a person sentenced to jail for nonsupport and who is assigned to a work release program or to perform public service work to earn good conduct credit at the rate of one day for each one day served on electronic monitoring.**

FULL TEXT

01/04/11 House: Prefiled and ordered printed; offered 01/12/11 11102907D pdf

HISTORY

01/04/11 House: Prefiled and ordered printed; offered 01/12/11 11102907D
01/04/11 House: Referred to Committee on Militia, Police and Public Safety
01/24/11 House: Assigned MPPS sub: #3
01/28/11 House: Subcommittee recommends laying on the table by voice vote
02/08/11 House: Left in Militia, Police and Public Safety

INTRODUCED

11102907D

HOUSE BILL NO. 1563

Offered January 12, 2011
Prefiled January 4, 2011

A BILL to amend and reenact § 20-115 of the Code of Virginia, relating to failure to comply with order or decree for support; good conduct credits; home electronic monitoring.

Patron—Miller, P.J.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 20-115 of the Code of Virginia is amended and reenacted as follows:

§ 20-115. Commitment and sentence for failure to comply with order or decree.

Upon failure or refusal to give the recognizance provided for in § 20-114, or upon conviction of any party for contempt of court in (i) failing or refusing to comply with any order or decree for support and maintenance for a spouse or for a child or children or (ii) willfully failing or refusing to comply with any order entered pursuant to § 20-103 or § 20-107.3, the court (i) may commit and sentence such party to a local correctional facility as provided for in § 20-61 and (ii) may assign the party to a work release program pursuant to § 53.1-131 or to perform public service work; in either event the assignment shall be for a fixed or indeterminate period or until the further order of the court. However, in no event shall commitment or work assignment be for more than ~~twelve~~ *12* months. The sum or sums as provided for in § 20-63, shall be paid as therein set forth, to be used for the support and maintenance of the spouse or the child or children for whose benefit such order or decree provided.

A person sentenced under this section who is assigned to a work release program pursuant to § 53.1-131 or to perform public service work may earn good conduct credit at the rate of one day for each one day served on electronic monitoring including all days served during which the person has not violated the written rules and regulations of the jail. It shall be the responsibility of the jailer in each facility to determine the manner in which these credits may be awarded and to include this information in the written policy mandated by § 53.1-116.

INTRODUCED

HB 1766 **Meth lab; penalty if present in same place as child, mentally incapacitated person, etc.**

Introduced by: Anne B. Crockett-Stark | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Presence of meth lab in same place as child, mentally incapacitated person, or physically helpless person. Provides that any adult who knowingly allows a child or a mentally incapacitated or physically helpless person to be present in the same dwelling, apartment, unit of a hotel, garage, shed, or vehicle where the components of manufacture or attempted manufacture of methamphetamine are present is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years, five years of which shall be a mandatory minimum term of imprisonment. Current law provides for enhanced punishment for the manufacture of methamphetamine in the presence of a child and omits the mandatory minimum term of imprisonment.

FULL TEXT

01/11/11 House: Prefiled and ordered printed; offered 01/12/11 11101004D
pdf | impact statement

HISTORY

01/11/11 House: Prefiled and ordered printed; offered 01/12/11 11101004D
01/11/11 House: Referred to Committee for Courts of Justice
02/08/11 House: Left in Courts of Justice

INTRODUCED

11101004D

HOUSE BILL NO. 1766

Offered January 12, 2011
Prefiled January 11, 2011

A BILL to amend and reenact § 18.2-248.02 of the Code of Virginia, relating to proximity of methamphetamine labs to certain people; penalty.

Patron—Crockett-Stark

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-248.02 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-248.02. Allowing a child or other designated person to be present where components of manufacture or attempted manufacture of methamphetamine are found prohibited; penalties.

Any ~~person 18 years of age or older who maintains a custodial relationship over a child under the age of 18, including but not limited to a parent, step-parent, grandparent, step-grandparent, or who stands in loco parentis with respect to such child, and~~ *adult* who knowingly allows ~~that~~ *a* child *or a mentally incapacitated or physically helpless person* to be present in the same dwelling, apartment as defined by § 55-79.2, unit of a hotel as defined in § 35.1-1, garage, shed, or vehicle ~~during the~~ *where the components of* manufacture or attempted manufacture of methamphetamine ~~as prohibited by~~ *including the substances described in* subsection ~~C1~~ *J* of § 18.2-248 *are present* is guilty of a felony punishable by imprisonment for not less than 10 nor more than 40 years, *five years of which shall be a mandatory minimum term of imprisonment.* This penalty shall be in addition to and served consecutively with any other sentence.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is $0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

HB 1810 Grand larceny; increases threshold amount of money or value of goods.

Introduced by: Scott A. Surovell | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Grand larceny; threshold amount. Increases from $200 to $750 the threshold amount of money or the value of the goods or chattel that the defendant must take before the crime rises from petit larceny to grand larceny. The same threshold is increased for certain property crimes.

FULL TEXT

01/11/11 House: Prefiled and ordered printed; offered 01/12/11 11100199D pdf

HISTORY

01/11/11 House: Prefiled and ordered printed; offered 01/12/11 11100199D
01/11/11 House: Referred to Committee for Courts of Justice
01/14/11 House: Assigned Courts sub: #1 Criminal
01/17/11 House: Subcommittee recommends passing by indefinitely by voice vote
02/08/11 House: Left in Courts of Justice

11100199D

HOUSE BILL NO. 1810

Offered January 12, 2011

Prefiled January 11, 2011

A BILL to amend and reenact §§ 18.2-23, 18.2-95, 18.2-96, 18.2-96.1, 18.2-97, 18.2-102, 18.2-103, 18.2-108.01, 18.2-145.1, 18.2-150, 18.2-152.3, 18.2-181, 18.2-181.1, 18.2-182, 18.2-186, 18.2-186.3, 18.2-187.1, 18.2-188, 18.2-195, 18.2-195.2, 18.2-197, 18.2-340.37, 19.2-289, 19.2-290, 19.2-386.16, and 29.1-553 of the Code of Virginia, relating to grand larceny and certain property crimes; threshold amount.

Patrons—Surovell and Kory; Senators: Petersen and Whipple

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-23, 18.2-95, 18.2-96, 18.2-96.1, 18.2-97, 18.2-102, 18.2-103, 18.2-108.01, 18.2-145.1, 18.2-150, 18.2-152.3, 18.2-181, 18.2-181.1, 18.2-182, 18.2-186, 18.2-186.3, 18.2-187.1, 18.2-188, 18.2-195, 18.2-195.2, 18.2-197, 18.2-340.37, 19.2-289, 19.2-290, 19.2-386.16, and 29.1-553 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-23. Conspiring to trespass or commit larceny.

A. If any person shall conspire, confederate or combine with another or others in the Commonwealth to go upon or remain upon the lands, buildings or premises of another, or any part, portion or area thereof, having knowledge that any of them have been forbidden, either orally or in writing, to do so by the owner, lessee, custodian or other person lawfully in charge thereof, or having knowledge that any of them have been forbidden to do so by a sign or signs posted on such lands, buildings, premises or part, portion or area thereof at a place or places where it or they may reasonably be seen, he shall be deemed guilty ~~of a C~~lass 3 misdemeanor.

B. If any person shall conspire, confederate or combine with another or others in the Commonwealth to commit larceny or counsel, assist, aid or abet another in the performance of a larceny, where the ~~aggregate value of the goods~~ or merchandise involved is more than ~~$200~~ *$750*, he is guilty of a felony punishable by confinement in a state correctional facility for not less than one year nor more than 20 years. The willful concealment of goods or merchandise of any store or other mercantile establishment, while still on the premises thereof, shall be prima facie evidence of an intent to convert and defraud the owner thereof out of the value of the goods or merchandise. A violation of this subsection constitutes a sep~~arate and~~ distinct felony.

C. Jurisdiction for the trial of any person charged under this section shall be in the county or city wherein any part of such conspiracy is planned, or in the county or city wherein any act is done toward the consummation of such plan or conspiracy.

~~§ 18.2-95. Gr~~and larceny defined; how punished.

Any person who (i) commits larceny from the person of another of money or other thing of value of $5 or more, (ii) commits simple larceny not from the person of another of goods and chattels of the value of ~~$200~~ *$750* or more, or (iii) commits simple larceny not from the person of another of any firearm, regardless of the firearm's value, shall be guilty of grand larceny, punishable by imprisonment in a state correctional facility for not less than one nor more than ~~twenty~~ *20* years or, in the discretion

HB 2298 **Marijuana; reduces penalty for possession by prisoner.**

Introduced by: David L. Englin | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Marijuana possession by prisoner. **Reduces the penalty for possession of marijuana by a prisoner from a Class 5 felony to a Class 6 felony, the same punishment as is currently imposed for possession of a firearm or a knife by a prisoner or for setting off an explosive device in a prison.**

FULL TEXT

01/12/11 House: Prefiled and ordered printed; offered 01/12/11 11100725D pdf

HISTORY

01/12/11 House: Prefiled and ordered printed; offered 01/12/11 11100725D
01/12/11 House: Referred to Committee on Militia, Police and Public Safety
01/24/11 House: Assigned MPPS sub: #2
01/27/11 House: Subcommittee recommends laying on the table by voice vote
02/08/11 House: Left in Militia, Police and Public Safety

INTRODUCED

11100725D

HOUSE BILL NO. 2298

Offered January 12, 2011
Prefiled January 12, 2011

A BILL to amend and reenact § 53.1-203 of the Code of Virginia, relating to marijuana possession by prisoner.

Patron—Englin

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 53.1.203 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-203. Felonies by prisoners; penalties.

It shall be unlawful for a prisoner in a state, local or community correctional facility or in the custody of an employee thereof to:

1. Escape from a correctional facility or from any person in charge of such prisoner;

2. Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such facility less secure as a place of confinement;

3. Make, procure, secrete or have in his possession any instrument, tool or other thing for the purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;

4. Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not authorized by the superintendent or sheriff which is capable of causing death or bodily injury;

5. Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully received;

6. Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of the Drug Control Act (§ 54.1-3400 et seq.) ~~or marijuana~~;

6a. Procure, sell, secrete or have in his possession marijuana;

7. Introduce into a correctional facility or have in his possession firearms or ammunition for firearms;

8. Willfully burn or destroy by use of any explosive device or substance, in whole or in part, or cause to be so burned or destroyed, any personal property, within any correctional facility;

9. Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers within any correctional facility; or

10. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

For violation of any of the provisions of this section, except subdivision 6, the prisoner shall be guilty of a Class 6 felony. For a violation of subdivision 6, he shall be guilty of a Class 5 felony. If the violation is of subdivision 1 of this section and the escapee is a felon, he shall be sentenced to a mandatory minimum term of confinement of one year, which shall be served consecutively with any other sentence. The prisoner shall, upon conviction of escape, immediately commence to serve such escape sentence, and he shall not be eligible for parole during such period. Any prisoner sentenced to life imprisonment who escapes shall not be eligible for parole. No part of the time served for escape shall be credited for the purpose of parole toward the sentence or sentences, the service of which is

INTRODUCED

HB 2513 **Deferred dispositions; no court shall have authority to defer and dismiss a criminal case.**
Introduced by: C. Todd Gilbert | all patrons ... notes | add to my profiles

SUMMARY AS PASSED HOUSE: (all summaries)

Inherent authority to defer and dismiss a criminal case. **Provides that no court shall have the authority, upon a plea of guilty or nolo contendere or after a plea of not guilty, when the facts found by the court would justify a finding of guilt, to defer proceedings or to defer entry of a final order of guilt for more than 60 days following the conclusion of the evidence or to dismiss the case upon completion of terms and conditions except as provided by statute. This is in response to the January 13, 2011, Supreme Court of Virginia decision in *Hernandez v. Commonwealth*, ___Va.___ (2011); record no. 092524.**

FULL TEXT

01/21/11 House: Presented and ordered printed 11104123D pdf | impact statements
02/04/11 House: Committee substitute printed 11105162D-H1 pdf

HISTORY

01/21/11 House: Presented and ordered printed 11104123D
01/21/11 House: Referred to Committee for Courts of Justice
01/25/11 House: Assigned Courts sub: #1 Criminal
02/02/11 House: Subcommittee recommends reporting with amendment(s) (8-Y 0-N)
02/04/11 House: Reported from Courts of Justice with substitute (21-Y 0-N)
...
02/08/11 House: Read third time and passed House (76-Y 22-N 1-A)
02/08/11 House: VOTE: PASSAGE (76-Y 22-N 1-A)
02/09/11 Senate: Constitutional reading dispensed
02/09/11 Senate: Referred to Committee for Courts of Justice
02/11/11 Senate: Assigned Courts sub: Criminal
02/16/11 Senate: Passed by indefinitely in Courts of Justice with letter (14-Y 0-N)
02/16/11 Senate: Letter sent to Crime Commission

2011 SESSION

INTRODUCED

11104123D

HOUSE BILL NO. 2513

Offered January 21, 2011

A BILL to amend the Code of Virginia by adding a section numbered 19.2-298.02, relating to inherent authority to defer and dismiss.

Patron--Gilbert

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-298.02 as follows:

§ 19.2-298.02. Deferred disposition in a criminal case.

No court shall have the authority, upon a plea of guilty or nolo contendere or after a plea of not guilty, when the facts found by the court would justify a finding of guilt, to defer proceedings or to defer entry of a final order of guilt or to dismiss the case upon completion of terms and conditions except as provided by statute.

INTRODUCED

2011 SESSION

HOUSE SUBSTITUTE

11105162D

HOUSE BILL NO. 2513

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on February 4, 2011)

(Patron Prior to Substitute--Delegate Gilbert)

A BILL to amend the Code of Virginia by adding a section numbered 19.2-298.02, relating to inherent authority to defer and dismiss.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-298.02 as follows:

§ 19.2-298.02. Deferred disposition in a criminal case.

No court shall have the authority, upon a plea of guilty or nolo contendere or after a plea of not guilty, when the facts found by the court would justify a finding of guilt, to defer proceedings or to defer entry of a final order of guilt or to dismiss the case upon completion of terms and conditions except as provided by statute. In no case shall the court defer entry of a final order of guilt for more than 60 days following conclusion of all of the evidence.

SUBSTITUTE

SB 796 **Rehabilitative programming; earned sentence credits.**

Introduced by: Mamie E. Locke | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Rehabilitative programming; earned sentence credits. **Allows prisoners to earn 10 additional sentence credits for each 30 days of incarceration for participation in programs aimed at earning a GED, college credit, or a certification through an accredited vocational training program or other accredited continuing education program, or interventional rehabilitation programs including mental health and sex offender treatment.**

FULL TEXT

12/29/10 Senate: Prefiled and ordered printed; offered 01/12/11 11101728D pdf

HISTORY

12/29/10 Senate: Prefiled and ordered printed; offered 01/12/11 11101728D
12/29/10 Senate: Referred to Committee on Rehabilitation and Social Services
01/24/11 Senate: Assigned Rehab sub: Corrections
01/28/11 Senate: Failed to report (defeated) in Rehabilitation and Social Services (2-Y 12-N)

11101728D

SENATE BILL NO. 796

Offered January 12, 2011

Prefiled December 29, 2010

A BILL to amend and reenact § 53.1-202.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 6 of Title 53.1 a section numbered 53.1-202.5, relating to rehabilitative programming; earned sentence credits.

Patrons—Locke; Delegates: Carr and Pogge

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-202.2 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 6 of Title 53.1 a section numbered 53.1-202.5 as follows:

§ 53.1-202.2. Eligibility for earned sentence credits.

A. Every person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility shall be eligible to earn sentence credits in the manner prescribed by this article. Such eligibility shall commence upon the person's incarceration in any correctional facility following entry of a final order of conviction by the ~~committing court. As used in this chapter, "sentence credit" and "earned sentence credit"~~ mean deductions from a person's term of confinement earned through adherence to rules prescribed pursuant to § 53.1-25, through program participation as required by §§ 53.1-32.1 ~~and~~, 53.1-202.3, *and 53.1-202.5,* and by meeting such other requirements as may be established by law or regulation. One earned sentence credit shall equal a deduction of one day from a person's term of incarceration.

B. A juvenile convicted as an adult and sentenced as a serious juvenile offender under clause (i) of subdivision A 1 of § 16.1-272 shall be eligible to earn sentence credits for the portion of the sentence served with the Department of Juvenile Justice in the manner prescribed by this article. Consideration for earned sentence credits shall require adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.

§ 53.1-202.5. Rate at which sentence credits may be earned for rehabilitative programming; prerequisites.

Ten additional sentence credits may be earned for each 30 days of rehabilitative programming. The earning of these sentence credits shall be conditioned upon full and satisfactory participation in programs for earning a high school diploma or an equivalent degree, college credit, or a certification through an accredited vocational training program or other accredited continuing education program. Credit shall also be given based on equivalent interventional rehabilitation programs completion, including but not limited to mental health treatment, sex offender treatment, and any other interventional rehabilitation programs deemed appropriate for this credit by the Director. Qualified individuals who conduct or teach such programs without other compensation shall also be eligible for such credits.

Credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence. Credit awarded under this section shall vest on the last day of each calendar year or upon full

SB 1142 Criminal case; allows court to defer disposition.

Introduced by: Frederick M. Quayle | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Deferred disposition. Allows a court to defer disposition in and discharge and dismiss any criminal case.

FULL TEXT

01/12/11 Senate: Prefiled and ordered printed; offered 01/12/11 11103057D pdf

HISTORY

01/12/11 Senate: Prefiled and ordered printed; offered 01/12/11 11103057D
01/12/11 Senate: Referred to Committee for Courts of Justice
01/13/11 Senate: Assigned Courts sub: Criminal
01/31/11 Senate: Passed by indefinitely in Courts of Justice (13-Y 1-N)

INTRODUCED

11103057D

SENATE BILL NO. 1142

Offered January 12, 2011
Prefiled January 12, 2011

A BILL to amend and reenact § 19.2-303.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-303.6, relating to ability of a court to defer disposition.

Patron--Quayle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-303.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-303.6 as follows:

§ 19.2-303.4. Payment of costs when proceedings deferred and defendant placed on probation.

A circuit or district court, which has deferred further proceedings, without entering a judgment of guilt, and placed a defendant on probation subject to terms and conditions pursuant to § 4.1-305, 16.1-278.8, 16.1-278.9, 18.2-57.3, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251 ~~or~~, 19.2-303.2, *or 19.2-303.6* shall impose upon the defendant costs.

§ 19.2-303.6. Deferred disposition in a criminal case.

Except as provided in §§ 4.1-305, 15.2-1812.2, 18.2-57.2, 18.2-61, 18.2-67.1, 18.2-67.2, 18.2-251, and 19.2-303.2, whenever any person who pleads guilty to or enters a plea of not guilty to any crime, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation subject to terms and conditions set by the court. Upon violation of a term or condition, the court may enter an adjudication of guilt or, upon fulfillment of the terms and conditions, may discharge the person and dismiss the proceedings against him without an adjudication of guilt.

INTRODUCED

SB 1316 **Sentence credits; allows a maximum of seven and one-half for each 30 days served.**

Introduced by: A. Donald McEachin | all patrons ... notes | add to my profiles

SUMMARY AS INTRODUCED:

Rate at which sentence credits may be earned. **Allows a maximum of seven and one-half sentence credits, as opposed to the current four and one-half, for each 30 days served.**

FULL TEXT

01/12/11 Senate: Prefiled and ordered printed; offered 01/12/11 11103790D
pdf | impact statement

HISTORY

01/12/11 Senate: Prefiled and ordered printed; offered 01/12/11 11103790D
01/12/11 Senate: Referred to Committee on Rehabilitation and Social Services
01/24/11 Senate: Assigned Rehab sub: Corrections
01/28/11 Senate: Passed by indefinitely in Rehabilitation and Social Services (12-Y 2-N)

2011 SESSION

INTRODUCED

11103790D

SENATE BILL NO. 1316

Offered January 12, 2011
Prefiled January 12, 2011

A BILL to amend and reenact § 53.1-202.3 of the Code of Virginia, relating to rate at which sentence credits may be earned.

Patron--McEachin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-202.3 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.

A maximum of ~~four~~ *seven* and one-half sentence credits may be earned for each 30 days served. The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

INTRODUCED

SB1316

House Budget Amendments

General Government - Independent Subcommittee Item 39 #1h

Judicial Department	**FY 10-11**	**FY 11-12**	
Supreme Court	$0	($2,951,000)	GF

Language:

Page 21, line 12, strike "$28,083,906" and insert "$25,132,906".

Explanation:

(This amendment eliminates general fund support for 14 drug court programs in the Commonwealth. These programs were originally established by the localities mostly with federal grants. There are currently 16 other drug court programs in the Commonwealth that do not receive state general fund support, many of which have been funded by federal grants which have recently or will soon expire.)

This amendment was not in the final budget approved by the General Assembly and sent to the Governor

Legislative Impact Analysis for the 2011 General Assembly

March 21, 2011

Code of Virginia § 30-19.1:4

- The Virginia Criminal Sentencing Commission must prepare a fiscal impact statement for any bill that would result in a net increase in the population of offenders housed in state adult correctional facilities (prisons)
- Law became effective July 1, 2000
- Effective July 1, 2002, the impact statement must:
  - Include analysis of the impact on local and regional jails as well as state and local community corrections programs; and
  - Detail any necessary adjustments to the sentencing guidelines

Code of Virginia § 30-19.1:4

- The Commission must estimate the increase in annual operating costs for prison facilities that would result if the proposal were enacted
  - A six-year projection is required
  - The highest single-year increase in operating costs is identified
  - This amount must be printed on the face of the bill
- If the Commission does not have sufficient information to project the impact, § 30-19.1:4 states that the words "Cannot be determined" are to be printed on the face of the bill

Code of Virginia § 30-19.1:4

- For each law enacted that results in a net increase in the prison population, a one-year appropriation must be made
  - Appropriation is equal to the highest single-year increase in operating cost during the six years following enactment
- Appropriations made per § 30-19.1:4 are deposited into the Corrections Special Reserve Fund

Code of Virginia § 30-19.1:4

- The Department of Juvenile Justice (DJJ) prepares a fiscal impact estimate for any bill that would result in a net increase in the juvenile population committed to the state
- DJJ provides this information to the Commission and a combined statement is submitted to the General Assembly

Additional Provisions in the Appropriations Act

In 2009, the Appropriations Act passed by the General Assembly included new language pertaining to fiscal impact statements

Item 48 of Chapter 781 of the 2009 Acts of Assembly

For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of $50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

Additional Provisions in the Appropriations Act

Item 49 of Chapter 874 of the 2010 Acts of Assembly

For any fiscal impact statement prepared by the Virginia Criminal Sentencing Commission pursuant to § 30-19.1:4, Code of Virginia, for which the commission does not have sufficient information to project the impact, the commission shall assign a minimum fiscal impact of $50,000 to the bill and this amount shall be printed on the face of each such bill, but shall not be codified. The provisions of § 30-19.1:4, paragraph H. shall be applicable to any such bill.

This requirement remained in the budget adopted by the 2010 General Assembly

11105673D

HOUSE BILL NO. 1434

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on February 26, 2011)

(Patron Prior to Substitute—Delegate Garrett)

A BILL to amend and reenact §§ 4.1-225, 9.1-176.1, 15.2-907, 16.1-260, 16.1-278.8:01, 18.2-251, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-308, 18.2-308.1:5, 18.2-308.4, 18.2-474.1, 19.2-83.1, 19.2-187, 19.2-386.22 through 19.2-386.25, 22.1-277.08, 22.1-279.3:1, 24.2-233, 53.1-145, 53.1-203, and 54.1-3446 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-248.1:1, relating to penalties for transport, possession, sale or distribution, etc., of synthetic cannabinoids; controlled substances.

Be it enacted by the General Assembly of Virginia:

1. That §§ 4.1-225, 9.1-176.1, 15.2-907, 16.1-260, 16.1-278.8:01, 18.2-251, 18.2-255, 18.2-255.1, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, 18.2-308, 18.2-308.1:5, 18.2-308.4, 18.2-474.1, 19.2-83.1, 19.2-187, 19.2-386.22 through 19.2-386.25, 22.1-277.08, 22.1-279.3:1, 24.2-233, 53.1-145, 53.1-203, and 54.1-3446 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-248.1:1 as follows:

§ 4.1-225. Grounds for which Board may suspend or revoke licenses.

The Board may suspend or revoke any license other than a brewery license, in which case the Board may impose penalties as provided in § 4.1-227, if it has reasonable cause to believe that:

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 874 of the Acts of Assembly of 2010 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of $50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

willfully deceived or attempted to deceive the Board, or any federal, state or local government, or governmental agency or authority, by making or maintaining business records required by statute or regulation which are false or fraudulent;

c. Within the five years immediately preceding the date of the hearing held in accordance with § 4.1-227, has (i) been convicted of a violation of any law, ordinance or regulation of the Commonwealth, of any county, city or town in the Commonwealth, of any state, or of the United States, applicable to the manufacture, transportation, possession, use or sale of alcoholic beverages; (ii) violated any provision of Chapter 3 (§ 4.1-300 et seq.) ~~of this title~~; (iii) committed a violation of the Wine Franchise Act (§ 4.1-400 et seq.) or the Beer Franchise Act (§ 4.1-500 et seq.) in bad faith; (iv) violated or failed or refused to comply with any regulation, rule or order of the Board; or (v) failed or refused to comply with any of the conditions or restrictions of the license granted by the Board;

Code of Virginia § 30-19.1:4

- The requirement for an impact statement includes, but is not limited to, proposals that:
  - Add new crimes for which imprisonment is authorized;
  - Increase the periods of imprisonment authorized for existing crimes;
  - Raise the classification of a crime from a misdemeanor to a felony;
  - Impose minimum or mandatory terms of imprisonment; or
  - Modify the law governing release of prisoners

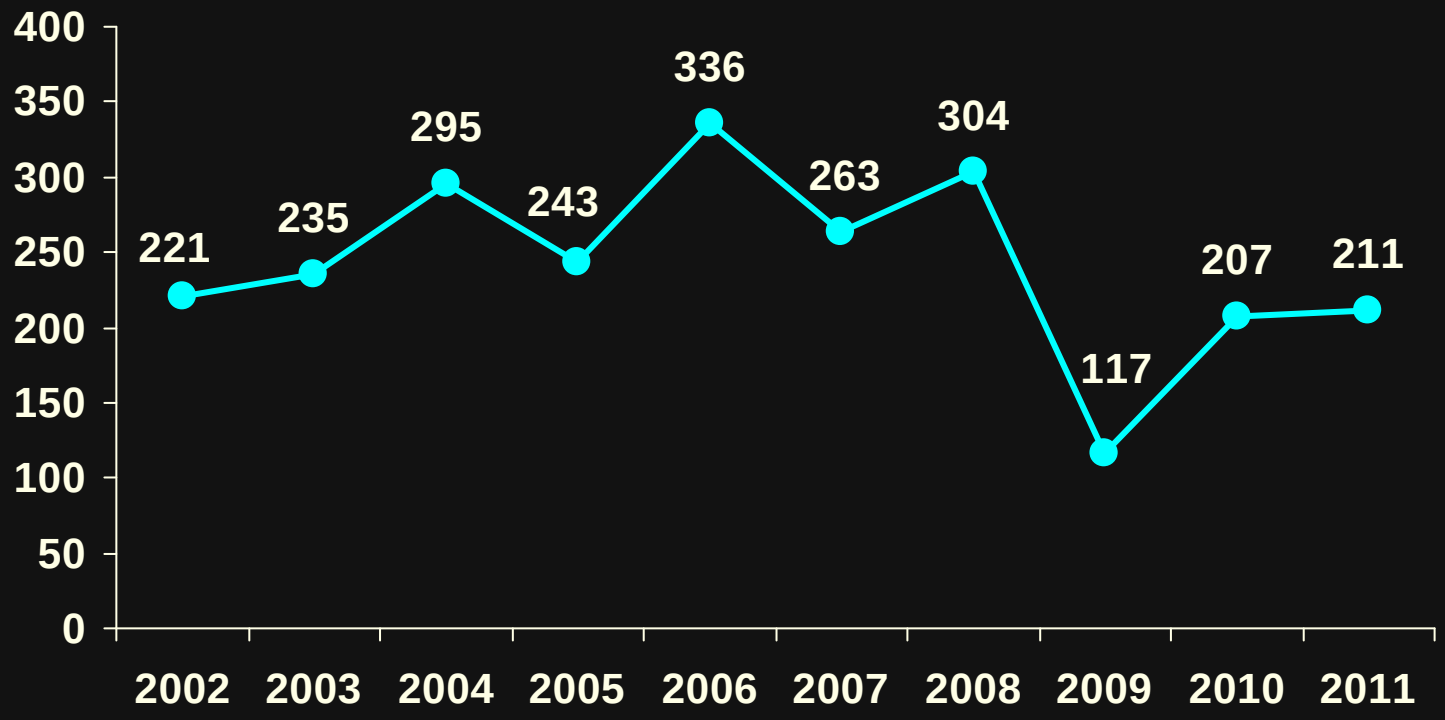
Legislative Impact Analysis

- Additional impact analyses may be conducted request of:
  - House Appropriations staff
  - Senate Finance staff
  - Department of Planning and Budget staff

Legislative Impact Analysis

- The necessary appropriation is calculated by:
  - Estimating the net increase in the prison population likely to result from the proposal during the six years following enactment
  - Identifying the highest single-year population increase
  - Multiplying that figure by the cost of holding a prison inmate for a year (operating costs, excluding capital costs)
- For FY2010, the annual operating cost per prison inmate was $27,065
  - This figure is provided each year by the Department of Planning and Budget

Impact Analyses Completed for 2002-2011 Sessions of the General Assembly



2011 General Assembly – 211 Impact Analyses Completed

Type of Legislative Change	Percent
Expansion or Clarification of Crime	87.2%
New Crime	26.5%
Mandatory Minimum	12.8%
Misdemeanor to Felony	10.9%
Increase Felony Penalty	2.8%
Death Penalty	0.0%

Percentages may not add to 100% as proposed legislation can involve multiple types of changes. Multiple analyses may be performed on each bill, depending on the number of amended and substitute versions that are adopted

Types of Offenses in Proposed Legislation

- Drugs (47 analyses)
- Sex Offenders and Offenses (29 analyses)
- Protective Orders (19 analyses)
- Assault (15 analyses)
- Fraud/Larceny (14 analyses)
- Gambling (13 analyses)
- Kidnapping (10 analyses)
- Gangs and Gang Offenses (9 analyses)

Bills with Fiscal Impacts Passed by the 2011 General Assembly

- **SB772: Expanding assault of a law-enforcement officer to include fire marshals ($12,818)**
  - **Senate budget included $75,543 to also cover assistant and deputy fire marshals**

- **SB745/HB1434: Expanding several drug crimes to include synthetic marijuana and adding certain "bath salts" to list of Schedule I controlled substances ($50,000)**

These bills were adopted with funds appropriated per § 30-19.1:4

Bills with Fiscal Impacts Passed by the 2010 General Assembly

- **SB1185/HB2066: Prohibiting sex-offender registrants from entering school buses ($50,000)**

- **SB1222/HB2063: Making the penalties for violating certain protective orders more consistent; expanding the persons and circumstances for which a protective order can be issued and the conditions that may be set in the order ($93,767)**

These bills were adopted with funds appropriated per § 30-19.1:4

Bills with Fiscal Impacts Passed by the 2011 General Assembly

- HB1516: Expanding assault of a law-enforcement officer to include ABC agents ($32,029)

- HB1777: Increasing the penalty for the manufacture or sale of fictitious birth certificates ($50,000)

- HB1898: Abducting minors for sexual purposes ($50,000)

These bills were adopted with funds appropriated per § 30-19.1:4

Bills with Fiscal Impacts Passed by the 2011 General Assembly

- **HB 2457: Increasing the penalty for a subsequent violation of certain provisions pertaining to the salvage of non-repairable vehicles ($50,000)**

- **HB2464: Adding new drugs to the list of Schedule II controlled substances ($50,000)**

Both of these bills were adopted WITHOUT appropriation of funds

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