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HOUSE BILL NO. 2271

Offered January 13, 2025

Prefiled January 7, 2025

A BILL to amend and reenact § 53.1-165 of the Code of Virginia, relating to revocation of postrelease supervision.

Patron—Obenshain (By Request)

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-165 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-165. Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney.

A. 1. Whenever any parolee ~~or felon serving a period of postrelease supervision~~ is arrested and recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has violated one or more of the terms or conditions upon which he was released on parole ~~or postrelease period of supervision~~ shall be held by any hearing officer who has been designated as such by the Director of the Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a parole violation is alleged, no preliminary hearing shall be required.

Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so appointed shall be available to serve upon request of the hearing officer. The term of each attorney's appointment shall continue until such time as a successor may be appointed. A hearing officer shall be authorized to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before him and to administer oaths and to take testimony thereunder.

Upon a finding of probable cause by the hearing officer, the Board or its authorized representative shall conduct a hearing, consider the case and act with reference thereto within a reasonable time thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each attorney shall be available to serve upon request of the Board. The term of each attorney's appointment shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke the parole and order the reincarceration of the prisoner for the unserved portion of the term of imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and conditions as were originally prescribed, or as may be prescribed in addition thereto or in lieu thereof. When a parole violation is based on a new felony conviction for which the individual has been sentenced to two or more years, excluding any time of said sentence which has been suspended, any individual Board member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise provided herein.

Upon revocation of parole for any felony offense, the Board or its authorized representative shall order that the Department of Corrections take fingerprints and a photograph of the person for each offense and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of § 19.2-390.

2. *Whenever any felon serving a period of postrelease supervision is arrested and recommitted as provided herein, a preliminary hearing to determine probable cause that such felon has violated one or more of the terms or conditions upon which he was released on a period of postrelease supervision shall be held by any hearing officer who has been designated as such by the Director of the Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a postrelease supervision violation is alleged, no preliminary hearing shall be required.*

Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or more discreet attorneys-at-law to represent felons serving a period of postrelease supervision in any proceedings held before him. Each attorney so appointed shall be available to serve upon request of the hearing officer. The term of each attorney's appointment shall continue until such time as a successor may be appointed. A hearing officer shall be authorized to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents before him and to administer oaths and to take testimony thereunder.

Upon a finding of probable cause by the hearing officer, the circuit court of the sentencing jurisdiction shall conduct a revocation hearing subject to the provisions of §§ 19.2-306, 19.2-306.1, and 19.2-306.2.

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59 *Upon any revocation of a suspended sentence after such revocation hearing, the circuit court of the*
60 *sentencing jurisdiction shall order that the Department of Corrections take fingerprints and a photograph of*
61 *the person for each offense and transmit such information to the Central Criminal Records Exchange*
62 *pursuant to subsection D of § 19.2-390.*

63 B. In cases in which a parolee or felon serving a period of postrelease supervision is in another state, any
64 hearing officer who has been designated as such by the Director of the Department may be sent to that state
65 to conduct a preliminary hearing to determine probable cause that the parolee *or felon serving a period of*
66 *postrelease supervision* has violated one or more of the terms and conditions upon which he was released
67 upon parole *or a period of postrelease supervision*.

68 C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court making the
69 appointment, from funds appropriated for court costs and expenses, reasonable compensation on an hourly
70 basis and necessary expenses, based upon a report to be furnished to it by such attorney. In the event an
71 attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the Department.