

## HOUSE BILL NO. 2271

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety

on \_\_\_\_\_)

(Patron Prior to Substitute—Delegate Obenshain)

*A BILL to amend and reenact §§ 17.1-803, 19.2-295.2, 19.2-306.1, 19.2-306.2, 53.1-136, 53.1-145, 53.1-149, 53.1-157, 53.1-162, 53.1-164, and 53.1-165 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-306.01, relating to revocation of postrelease supervision.*

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 17.1-803, 19.2-295.2, 19.2-306.1, 19.2-306.2, 53.1-136, 53.1-145, 53.1-149, 53.1-157, 53.1-162, 53.1-164, and 53.1-165 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-306.01 as follows:**

**§ 17.1-803. Powers and duties.**

The Commission shall:

1. Develop, maintain and modify as may be deemed necessary, a proposed system of statewide discretionary sentencing guidelines for use in all felony cases which will take into account historical data, when available, concerning time actually served for various felony offenses committed prior to January 1, 1995, and sentences imposed for various felony offenses committed on or after January 1, 1995, and such other factors as may be deemed relevant to sentencing.

2. Prepare, periodically update, and distribute sentencing worksheets for the use of sentencing courts which, when used, will produce a recommended sentencing range for a felony offense in accordance with the discretionary sentencing guidelines established pursuant to subdivision 1.

3. Prepare, periodically update, and distribute a form for the use of sentencing courts which will assist such courts in recording the reason or reasons for any sentence imposed in a felony case which is greater or less than the sentence recommended by the discretionary sentencing guidelines.

4. Prepare guidelines for sentencing courts to use in determining appropriate candidates for alternative sanctions which may include, but not be limited to (i) fines and day fines, (ii) boot camp incarceration, (iii) local correctional facility incarceration, (iv) diversion center incarceration, (v) detention center incarceration, (vi) home incarceration/electronic monitoring, (vii) day or evening reporting, (viii) probation *or postrelease* supervision, (ix) intensive probation *or postrelease* supervision, and (x) performance of community service.

31 5. Develop an offender risk assessment instrument for use in all felony cases, based on a study of Virginia  
32 felons, that will be predictive of the relative risk that a felon will become a threat to public safety.

33 6. Apply the risk assessment instrument to offenders convicted of any felony that is not specified in (i)  
34 subdivision 1, 2 or 3 of subsection A of § 17.1-805 or (ii) subsection C of § 17.1-805 under the discretionary  
35 sentencing guidelines, and shall determine, on the basis of such assessment and with due regard for public  
36 safety needs, the feasibility of achieving the goal of placing 25 percent of such offenders in one of the  
37 alternative sanctions listed in subdivision 4. If the Commission so determines that achieving the 25 percent or  
38 a higher percentage goal is feasible, it shall incorporate such goal into the discretionary sentencing guidelines,  
39 to become effective on January 1, 1996. If the Commission so determines that achieving the goal is not  
40 feasible, the Commission shall report that determination to the General Assembly, the Governor and the  
41 Chief Justice of the Supreme Court of Virginia on or before December 1, 1995, and shall make such  
42 recommendations as it deems appropriate.

43 7. Prepare, periodically update, and distribute a form for recording the reasons for, and outcomes of,  
44 revocation hearings conducted in circuit courts pursuant to § §§ 19.2-306 *and* 19.2-306.01.

45 8. Develop, maintain, and modify as may be deemed necessary a system of statewide discretionary  
46 sentencing guidelines for use in hearings conducted in circuit courts pursuant to § 19.2-306 *or* 19.2-306.01 in  
47 which the defendant is cited for violation of a condition or conditions of supervised probation *or postrelease*  
48 *supervision* imposed as a result of a felony conviction. Such guidelines shall take into account historical data  
49 for sentences imposed in such cases and such other factors as may be deemed relevant to sentencing.

50 9. Monitor sentencing practices in felony cases throughout the Commonwealth, including the use of the  
51 discretionary sentencing guidelines, and maintain a database containing the information obtained.

52 10. Monitor felony sentence lengths, crime trends, correctional facility population trends and correctional  
53 resources and make recommendations regarding projected correctional facilities capacity requirements and  
54 related correctional resource needs.

55 11. Study felony statutes in the context of judge-sentencing and jury-sentencing patterns as they evolve  
56 after January 1, 1995, and make recommendations for the revision of general criminal offense statutes to  
57 provide more specific offense definitions and more narrowly prescribed ranges of punishment.

58 12. Report upon its work and recommendations annually on or before December 1 to the General  
59 Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia. Such report shall include

any modifications to the discretionary sentencing guidelines adopted by the Commission pursuant to subdivision 1 and shall be accompanied by a statement of the reasons for those modifications.

13. Perform such other functions as may be otherwise required by law or as may be necessary to carry out the provisions of this chapter.

**§ 19.2-295.2. Postrelease supervision of felons sentenced for offenses committed on and after January 1, 1995, and on and after July 1, 2000.**

A. At the time the court imposes sentence upon a conviction for any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, in addition to any other punishment imposed if such other punishment includes an active term of incarceration in a state or local correctional facility, except in cases in which the court orders a suspended term of confinement of at least six months, impose a term of incarceration, in addition to the active term, of not less than six months nor more than three years, as the court may determine. Such additional term shall be suspended and the defendant shall be ordered to be placed under postrelease supervision upon release from the active term of incarceration. The period of supervision shall be established by the court; however, such period shall not be less than six months nor more than three years. Periods of postrelease supervision imposed pursuant to this section upon more than one felony conviction may be ordered to run concurrently. Periods of postrelease supervision imposed pursuant to this section may be ordered to run concurrently with any period of probation the defendant may also be subject to serve.

B. The period of postrelease supervision shall be under the ~~supervision~~ *jurisdiction* and review of the ~~Virginia Parole Board. The Board shall review each felon prior to release and establish conditions of postrelease supervision. Failure to successfully abide by such terms and conditions shall be grounds to terminate the period of postrelease supervision and recommit the defendant to the Department of Corrections or to the local correctional facility from which he was previously released. Procedures for any such termination and recommitment shall be conducted in the same manner as procedures for the revocation of parole~~ *circuit court that imposed the term of postrelease supervision. At the time of the original imposition of any period of postrelease supervision, the sentencing judge shall require the felon serving the period of postrelease supervision to comply with such terms and conditions as may be prescribed by the circuit court and the probation and parole officer, and to report to the probation and parole office in the judicial circuit in which the term of postrelease supervision was imposed to sign applicable conditions of postrelease*

89 supervision within 24 hours of the felon's release from incarceration.

90 C. Postrelease supervision programs shall be operated through the probation and parole districts  
91 established pursuant to § 53.1-141. *Failure to successfully abide by such terms and conditions as may be*  
92 *prescribed by the circuit court and the probation and parole officer shall be grounds to terminate the period*  
93 *of postrelease supervision and recommit the defendant to the Department of Corrections or to the local*  
94 *correctional facility from which he was previously released. Procedures for any such termination and*  
95 *recommitment shall be conducted in the manner prescribed by § 19.2-306.01.*

96 In any case where a person who is released on postrelease supervision has been committed to the  
97 Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900  
98 et seq.) of Title 37.2, the conditions of his postrelease supervision shall include the requirement that the  
99 person comply with all conditions given him by the Department of Behavioral Health and Developmental  
100 Services and that he follow all of the terms of his treatment plan.

101 D. Nothing in this section shall be construed to prohibit the court from exercising any authority otherwise  
102 granted by law.

103 **§ 19.2-306.01. Revocation of term of postrelease supervision.**

104 A. Subject to the provisions of § 19.2-306.2, in any case in which the court has imposed a term of  
105 postrelease supervision, the court may revoke the term of postrelease supervision for any cause the court  
106 deems sufficient that occurred at any time within the supervision period.

107 B. The court may not conduct a hearing to revoke the term of postrelease supervision unless the court  
108 issues process to notify the accused or to compel his appearance before the court within 90 days of receiving  
109 notice of the alleged violation or within one year after the expiration of the period of postrelease supervision,  
110 whichever is sooner, or, in the case of a failure to pay restitution, within three years after such expiration.

111 C. If the court, after hearing, finds good cause to believe that the defendant has violated the terms of  
112 suspension of the additional period of incarceration imposed pursuant to subsection A of § 19.2-295.2, then  
113 the court may revoke the suspension and impose a sentence in accordance with the provisions of § 19.2-306.1  
114 . The court may again suspend all or any part of this sentence for a period up to the full term of postrelease  
115 supervision originally imposed pursuant to subsection A of § 19.2-295.2, and may place the defendant upon  
116 terms and conditions of postrelease supervision.

117 D. If any court has, after hearing, found no cause to impose a term of incarceration related to a violation

of the terms and conditions of postrelease supervision, then any further hearing to impose a term of incarceration related to a violation of the terms and conditions of postrelease supervision, based solely on the alleged violation for which the hearing was held, shall be barred.

E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the manner provided by law to the circuit court having criminal jurisdiction from a judgment or order revoking any suspended sentence.

**§ 19.2-306.1. Limitation on sentence upon revocation of suspension of sentence or revocation of postrelease supervision; exceptions.**

A. For the purposes of this section, "technical violation" means a violation based on the probationer's or postrelease supervisee's failure to (i) report any arrest, including traffic tickets, within three days to the probation officer; (ii) maintain regular employment or notify the probation officer of any changes in employment; (iii) report within three days of release from incarceration; (iv) permit the probation officer to visit his home and place of employment; (v) follow the instructions of the probation officer, be truthful and cooperative, and report as instructed; (vi) refrain from the use of alcoholic beverages to the extent that it disrupts or interferes with his employment or orderly conduct; (vii) refrain from the use, possession, or distribution of controlled substances or related paraphernalia; (viii) refrain from the use, ownership, possession, or transportation of a firearm; (ix) gain permission to change his residence or remain in the Commonwealth or other designated area without permission of the probation officer; or (x) maintain contact with the probation officer whereby his whereabouts are no longer known to the probation officer. Multiple technical violations arising from a single course of conduct or a single incident or considered at the same revocation hearing shall not be considered separate technical violations for the purposes of sentencing pursuant to this section.

B. If the court finds the basis of a violation of the terms and conditions of a suspended sentence or probation or term of postrelease supervision is that the defendant was convicted of a criminal offense that was committed after the date of the suspension, or has violated another condition other than (i) a technical violation or (ii) a good conduct violation that did not result in a criminal conviction, then the court may revoke the suspension or term of postrelease supervision and impose or resuspend any or all of that period previously suspended, or impose a term of incarceration not exceeding the term of postrelease supervision previously imposed, as the case may be.

147 C. The court shall not impose a sentence of a term of active incarceration upon a first technical violation  
148 of the terms and conditions of a suspended sentence or probation *or postrelease supervision*, and there shall  
149 be a presumption against imposing a sentence of a term of active incarceration for any second technical  
150 violation of the terms and conditions of a suspended sentence or probation *or postrelease supervision*.  
151 However, if the court finds, by a preponderance of the evidence, that the defendant committed a second  
152 technical violation and he cannot be safely diverted from active incarceration through less restrictive means,  
153 the court may impose not more than 14 days of active incarceration for a second technical violation. The  
154 court may impose whatever sentence might have been originally imposed for a third or subsequent technical  
155 violation. For the purposes of this subsection, a first technical violation based on clause (viii) or (x) of  
156 subsection A shall be considered a second technical violation, and any subsequent technical violation also  
157 based on clause (viii) or (x) of subsection A shall be considered a third or subsequent technical violation.

158 D. The limitations on sentencing in this section shall not apply to the extent that an additional term of  
159 incarceration is necessary to allow a defendant to be evaluated for or to participate in a court-ordered drug,  
160 alcohol, or mental health treatment program. In such case, the court shall order the shortest term of  
161 incarceration possible to achieve the required evaluation or participation.

162 **§ 19.2-306.2. Use of sentencing revocation report and discretionary sentencing guidelines in cases of**  
163 **revocation of suspension of sentence and probation or revocation of postrelease supervision.**

164 A. In any proceeding conducted pursuant to § 19.2-306 for revocation of suspension of sentence or  
165 probation imposed as a result of a felony conviction, *or pursuant to § 19.2-306.01 for revocation of*  
166 *postrelease supervision imposed as a result of a felony conviction*, the circuit court shall have presented to it a  
167 sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing  
168 Commission. Such form shall indicate the nature of the alleged violation or violations and, if the defendant is  
169 subject to supervised probation, the condition or conditions of probation that the defendant has allegedly  
170 violated. The sentencing revocation report shall be prepared by the supervising probation agency that initiated  
171 the request for the revocation hearing. If the defendant is not under active probation *or postrelease*  
172 *supervision* or the supervising probation agency did not initiate the request for the revocation hearing, the  
173 sentencing revocation report shall be completed by an attorney for the Commonwealth.

174 B. For every proceeding conducted pursuant to § 19.2-306 *or 19.2-306.01* in which the defendant is cited  
175 for violating a condition or conditions of supervised probation *or postrelease supervision* imposed as a result

of a felony conviction and such person is under the supervision of a state probation and parole officer, the court shall have presented to it the applicable discretionary probation *or postrelease supervision* violation guidelines pursuant to § 17.1-803.

1. The applicable discretionary probation *or postrelease* violation guidelines shall be prepared by a state probation and parole officer on a form designated by the Virginia Criminal Sentencing Commission. If a party other than a probation and parole officer initiated the request for the revocation hearing, no probation *or postrelease supervision* violation guidelines are prepared and only the sentencing revocation report required by subsection A shall be submitted to the court.

2. The court shall review and consider the suitability of the applicable discretionary probation *or postrelease* violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case.

3. In any proceeding in which the court imposes a sentence that is either greater than or less than that indicated by the discretionary probation *or postrelease* violation guidelines, the court shall provide a written explanation of such departure to be filed with the record of the case.

C. Within 30 days following the entry of a final order in a revocation proceeding, the clerk of the circuit court shall prepare and send to the Virginia Criminal Sentencing Commission a copy or copies of (i) the final order, (ii) the original sentencing revocation report, (iii) any applicable probation *or postrelease* violation guideline worksheets prepared for such proceeding, and (iv) any written explanation regarding a departure from the probation *or postrelease* violation guidelines pursuant to subsection B.

D. Failure to follow the provisions of this section or failure to follow these provisions in the prescribed manner shall not be reviewable on appeal and shall not be used for the basis of any other post-proceeding relief.

**§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.**

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review. Such eligibility rules shall require consideration of the prisoner's demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports;

205 2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners  
206 who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation  
207 and the lesser culpability of juvenile offenders;

208 3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe,  
209 persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility  
210 in Virginia when those persons become eligible and are found suitable for parole, according to those rules  
211 adopted pursuant to subdivisions 1 and 2;

212 b. ~~Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A~~  
213 ~~of § 19.2-295.2;~~

214 e. Notify the Department of Corrections of its decision to grant discretionary parole or conditional release  
215 to an inmate. The Department of Corrections shall set the release date for such inmate no sooner than 30  
216 business days from the date that the Department of Corrections receives such notification from the Chairman  
217 of the Board, except that the Department of Corrections may set an earlier release date in the case of an  
218 inmate granted conditional release pursuant to § 53.1-40.02. In the case of an inmate granted parole who was  
219 convicted of a felony and sentenced to a term of 10 or more years, or an inmate granted conditional release,  
220 the Board shall notify the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced  
221 (i) by electronic means at least 21 business days prior to such inmate's release that such inmate has been  
222 granted discretionary parole or conditional release pursuant to § 53.1-40.01 or 53.1-40.02 or (ii) by telephone  
223 or other electronic means prior to such inmate's release that such inmate has been granted conditional release  
224 pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be construed to alter the  
225 obligations of the Board under § 53.1-155 for investigation prior to release on discretionary parole;

226 ~~d. c.~~ c. Provide that in any case where a person who is released on parole ~~or postrelease supervision~~ has been  
227 committed to the Department of Behavioral Health and Developmental Services under the provisions of  
228 Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole ~~or postrelease supervision~~ shall  
229 include the requirement that the person comply with all conditions given him by the Department of  
230 Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

231 4. Revoke parole ~~and any period of postrelease~~ and order the reincarceration of any parolee ~~or felon~~  
232 ~~serving a period of postrelease supervision~~ or impose a condition of participation in any component of the  
233 Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on



any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole ~~or~~  
~~postrelease supervision~~ or is otherwise unfit to be on parole ~~or on postrelease supervision~~;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society. Final discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a majority of Board members. The Board shall publish an annual report regarding final discharges issued by the Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has been on parole or postrelease supervision in the community, (vi) the basis for the final discharge, and (vii) the vote of each Board member;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish a statement by the fifteenth day of each month regarding the actions taken by the Board on the parole of prisoners during the prior month. The statement shall list (i) the name of each prisoner considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has served, (vi) whether the prisoner was granted or denied parole, (vii) individualized reasons for the grant or denial of parole, and (viii) the final vote and the names of the Board members who voted in favor of granting parole and those who voted against. However, in the case of a prisoner granted parole, the information set forth in clauses (i) through (viii) regarding such prisoner shall be included in the statement published in the month immediately succeeding the month in which notification of the decision to grant parole was given to the attorney for the Commonwealth and any victims;

8. Publish an annual report regarding actions taken by the Board on the parole of prisoners during the prior year. Such report shall contain each monthly statement published by the Board pursuant to subdivision 7 and a summary that identifies (i) the total number of prisoners considered for parole, (ii) the number of persons granted parole, (iii) the number of persons denied parole, and (iv) the most common reasons for which parole was granted or denied;

9. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for

release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific, individualized reasons for such denial to such inmate; and

10. Convene a public meeting, either in person or via video conference, when conducting the final deliberation and vote regarding whether the Board will grant parole to a prisoner. The prisoner being considered for parole or his attorney shall be permitted to attend such meeting either, in the Board's discretion, in person or via video conference. The victim shall be permitted to attend and participate in such meeting either, in the Board's discretion, in person or via video or phone conference or to provide written or recorded testimony. No decision to grant discretionary parole shall be made by the Board unless such decision was discussed and debated at a meeting at which a majority of the Board members were present. Whether the Board grants or denies discretionary parole to an inmate, each Board member shall identify his reasoning for such decision at the time such member's vote is cast.

**§ 53.1-145. Powers and duties of probation and parole officers.**

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation *or release on postrelease supervision*, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation *or postrelease supervision* and instruct him therein, *and, in his discretion, assist any person within his territory who has completed his postrelease supervision and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community*; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation *or postrelease supervision* shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

3. Supervise and assist all persons within his territory released on parole ~~or postrelease supervision~~, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse

292 treatment program which may include utilization of acupuncture and other treatment modalities, and, in his  
293 discretion, assist any person within his territory who has completed his parole; ~~postrelease supervision~~, or has  
294 been mandatorily released from any correctional facility in the Commonwealth and requests assistance in  
295 finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

296 4. Arrest and recommit to the place of confinement from which he was released, or in which he would  
297 have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of  
298 probation, ~~post-release~~ *postrelease* supervision pursuant to § 19.2-295.2 or parole, any probationer, person  
299 subject to ~~post-release~~ *postrelease* supervision or parolee under his supervision, or as directed by the  
300 Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

301 5. Keep such records, make such reports, and perform other duties as may be required of him by the  
302 Director and the court or judge by whom he was authorized;

303 6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject  
304 to ~~post-release~~ *postrelease* supervision pursuant to § 19.2-295.2 or parolee under his supervision who the  
305 officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the abuse  
306 of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the  
307 officer's exercise of this authority shall be promulgated by the Director;

308 7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the  
309 Director and upon the certification of appropriate training and specific authorization by a judge of a circuit  
310 court;

311 8. Provide services in accordance with any contract entered into between the Department of Corrections  
312 and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-912;

313 9. Pursuant to any contract entered into between the Department of Corrections and the Department of  
314 Behavioral Health and Developmental Services, probation and parole officers shall have the power to provide  
315 intensive supervision services to persons placed on conditional release, regardless of whether the person has  
316 any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et seq.);

317 10. Determine by reviewing the Department of Forensic Science DNA data bank sample tracking system  
318 upon intake and again prior to release whether a blood, saliva, or tissue sample is stored in the data bank for  
319 each person placed on probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et  
320 seq.) of Chapter 18 of Title 19.2 and, if a person's sample is not stored in the data bank, require the person

321 placed on probation or parole to submit a sample for DNA analysis;

322 11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult Offenders  
323 (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia, would require the  
324 offender to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2, take a  
325 sample or verify that a sample has been taken and accepted into the data bank for DNA analysis in the  
326 Commonwealth;

327 12. Monitor the collection and payment of restitution to the victims of crime for offenders placed on  
328 supervised probation;

329 13. Prior to the release from supervision of any offender on probation as of July 1, 2019, review the  
330 criminal history record of the offender at least 60 days prior to release from supervision, or immediately if the  
331 offender is scheduled to be released from supervision within less than 60 days, to determine whether all  
332 offenses for which the offender is being supervised appear on such record and, if any such offense that is  
333 required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i)  
334 take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to  
335 be classified and filed as part of the criminal history record information pursuant to subsection D of §  
336 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within  
337 the Department of State Police that such offense does not appear on the offender's criminal history record;  
338 and

339 14. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a  
340 photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the  
341 criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal history  
342 record of the offender to determine whether all offenses for which the offender is being supervised appear on  
343 such record, and (iii) if any such offense that is required to be reported to the Central Criminal Records  
344 Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to the Central  
345 Criminal Records Exchange within the Department of State Police that such offense does not appear on the  
346 offender's criminal history record.

347 Nothing in this article shall require probation and parole officers to investigate or supervise cases before  
348 general district or juvenile and domestic relations district courts.

349 **§ 53.1-149. Arrest of probationer or felon serving a period of postrelease supervision without**

**350 warrant; written statement.**

351 Any probation officer appointed pursuant to this chapter may arrest a probationer *or felon serving a*  
352 *period of postrelease supervision* without a warrant, or may deputize any other officer with power to arrest to  
353 do so, by a written statement setting forth that the probationer *or felon serving postrelease supervision* has, in  
354 the judgment of the probation officer, violated one or more of the terms or conditions upon which the  
355 probationer *or felon serving a period of postrelease supervision* was released on probation *or postrelease*  
356 *supervision*. Such a written statement by a probation officer delivered to the officer in charge of any local jail  
357 or lockup shall be sufficient warrant for the detention of the probationer *or felon serving a period of*  
358 *postrelease supervision*. Any officer deputized upon receipt of the written statement shall, in accordance with  
359 § 19.2-390, enter, or cause to be entered, the person's name and other appropriate information required by the  
360 Department of State Police into the "information systems" known as the Virginia Criminal Information  
361 Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of  
362 Title 52. Such information shall be deemed a warrant authorizing the arrest of the person anywhere in the  
363 Commonwealth.

**364 § 53.1-157. Parolees to comply with terms; furnishing copies.**

365 Each parolee ~~or felon serving a period of postrelease supervision~~ while on parole ~~or period of postrelease~~  
366 ~~supervision~~ shall comply with such terms and conditions as may be prescribed by the Board. When any  
367 prisoner is released on parole ~~or postrelease period of supervision~~, the Board shall furnish the parolee and the  
368 probation and parole officer having supervision of the parolee ~~or felon serving a period of postrelease~~  
369 ~~supervision~~ a copy of the terms and conditions of the parole ~~or postrelease period of supervision~~ and any  
370 changes which may from time to time be made therein.

**371 § 53.1-162. Arrest of parolee without warrant; written statement.**

372 Any probation and parole officer may arrest a parolee ~~or felon serving a period of postrelease supervision~~  
373 without a warrant or may deputize any other officer with power of arrest to do so by a written statement  
374 setting forth that the parolee ~~or felon serving a period of postrelease supervision~~ has, in the judgment of the  
375 probation and parole officer, violated one or more of the terms or conditions of his parole ~~or postrelease~~  
376 ~~period of supervision~~. Such a written statement by a probation and parole officer delivered to the officer in  
377 charge of any state or local correctional facility shall be sufficient warrant for the detention of the parolee ~~or~~  
378 ~~felon serving a period of postrelease supervision~~. Any officer deputized upon receipt of the written statement

shall, in accordance with § 19.2-390, enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a warrant authorizing the arrest of the person anywhere in the Commonwealth.

**§ 53.1-164. Procedure for return of parolee.**

When any parolee ~~or felon serving a period of postrelease supervision~~ is returned to any facility in accordance with the provisions of § 53.1-161, he shall be held in accordance with rules of the Director and subject to further action of the Parole Board. The officer in charge of the facility shall see that the Parole Board is notified promptly of each such parolee's ~~or felon's~~ return.

**§ 53.1-165. Revocation of parole; hearing; procedure for parolee in another state; appointment of attorney.**

A. 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.

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

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