

SENATE BILL NO. 1431

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Senator Marsden)

A BILL to amend and reenact § 19.2-120 of the Code of Virginia, relating to admission to bail; risk assessment.

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-120 of the Code of Virginia is amended and reenacted as follows:****§ 19.2-120. Admission to bail.**

A. 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. *Upon statewide implementation of a universal pretrial risk assessment tool, the judge shall (i) require an evidence-based universal pretrial risk assessment tool be used by the pretrial services agency prior to a person who was arrested for the commission or attempted commission of a second or subsequent violent felony as defined in § 19.2-297.1 to be admitted to bail; (ii) review the results of such risk assessment tool; and (iii) to the extent feasible, obtain the person's criminal history when such person was arrested for the commission or attempted commission of a second or subsequent violent felony as defined in § 19.2-297.1. Such universal pretrial risk assessment tool shall not require an interview for full completion. Nothing in clauses (i), (ii), or (iii) shall apply to a jurisdiction without a pretrial services agency.*

B. 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, family or household members as defined in § 16.1-228, or the public.

C. In making a determination under subsection B, the judicial officer shall consider all relevant information, including (i) the nature and circumstances of the offense; (ii) whether a firearm is alleged to have been used in the commission of the offense; (iii) the weight of the evidence; (iv) the history of the accused or juvenile, including his family ties or involvement in employment, education, or medical, mental health, or substance abuse treatment; (v) his length of residence in, or other ties to, the community; (vi) his

record of convictions; (vii) his appearance at court proceedings or flight to avoid prosecution or convictions for failure to appear at court proceedings; and (viii) whether the person is likely to obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate, a prospective witness, juror, victim, or family or household member as defined in § 16.1-228.

D. A judicial officer who admits a person to bail who is charged with an act of violence as defined in § 19.2-297.1 shall notify the attorney for the Commonwealth for the jurisdiction in which such person's case is filed contemporaneously with such person's grant of bail or release. Notice to the attorney for the Commonwealth may be made by facsimile or other electronic means.

E. The judicial officer shall inform the person of his right to appeal from the order denying bail or fixing terms of bond or recognizance consistent with § 19.2-124.

F. If the judicial officer sets a secured bond and the person engages the services of a licensed bail bondsman, the magistrate executing recognizance for the accused shall provide the bondsman, upon request, with a copy of the person's Virginia criminal history record, if readily available, to be used by the bondsman only to determine appropriate reporting requirements to impose upon the accused upon his release. The bondsman shall pay a \$15 fee payable to the state treasury to be credited to the Literary Fund, upon requesting the defendant's Virginia criminal history record issued pursuant to § 19.2-389. The bondsman shall review the record on the premises and promptly return the record to the magistrate after reviewing it.