

SENATE BILL NO. 1141

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice

on _____)

(Patron Prior to Substitute—Senator Sturtevant)

A BILL to amend and reenact § 53.1-220.2 of the Code of Virginia, relating to transfer of certain incarcerated persons to U.S. Immigration and Customs Enforcement.

Be it enacted by the General Assembly of Virginia:**1. That § 53.1-220.2 of the Code of Virginia is amended and reenacted as follows:****§ 53.1-220.2. Transfer of certain incarcerated persons to Immigration and Customs Enforcement.**

The Director, sheriff, or other official in charge of the facility in which an alien is incarcerated ~~may~~ shall, upon receipt of a detainer from U.S. Immigration and Customs Enforcement, (i) *provide U.S. Immigration and Customs Enforcement with prerelease notification of such alien's release and* (ii) *upon request from U.S. Immigration and Customs Enforcement, transfer custody of the alien to U.S. Immigration and Customs Enforcement upon such alien's release. Such release may occur no more than five days prior to the date that he would otherwise be released from custody, and no alien shall be detained beyond his release date otherwise required by the terms of his sentence. Nothing in this section shall be construed to authorize the Director, sheriff, or other official in charge of the facility to transport or to arrange or cause the transport of such alien if U.S. Immigration and Customs Enforcement fails to appear for the transfer of custody.* Upon transfer of custody, notwithstanding any other provision of law, the alien shall receive credit for the number of days remaining before he would otherwise have been released.