

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend the Code of Virginia by adding a section numbered 19.2-303.03, relating to modification of*  
 3 *sentence for marijuana-related offenses.*

4 [H 2555]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That the Code of Virginia is amended by adding a section numbered 19.2-303.03 as follows:**8 **§ 19.2-303.03. Modification of sentence for marijuana-related convictions.**

9 *A. Notwithstanding other provisions of law or rule of court, if a person who (i) was convicted of a felony*  
 10 *offense involving the possession, manufacture, selling, giving, distribution, transportation, or delivery of*  
 11 *marijuana in violation of § 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2, 18.2-256, 18.2-257,*  
 12 *18.2-258, 18.2-258.02, 18.2-258.1, 18.2-265.3, or 18.2-474.1 committed prior to July 1, 2021; (ii) was*  
 13 *sentenced to jail or to the Department of Corrections or placed on community supervision as defined in §*  
 14 *53.1-1 for such conviction; and (iii) remains incarcerated in a state or local correctional facility or secure*  
 15 *facility, as defined in § 16.1-228, serving the sentence for such conviction or a combination of such*  
 16 *convictions or remains on community supervision as defined in § 53.1-1 for such conviction or a combination*  
 17 *of such convictions on July 1, 2025, the circuit court that entered the original judgment or order shall*  
 18 *schedule a hearing by January 1, 2026, to consider modification of such person's sentence. The*  
 19 *Commonwealth shall be made party to the proceeding and receive notice of such hearing.*

20 *B. Any person eligible for modification of his sentence under this section may file a petition for the*  
 21 *assistance of counsel and a statement of indigency with the court on a form provided by the Supreme Court of*  
 22 *Virginia; however, if such person was found to be indigent at his original sentencing, he shall be entitled to*  
 23 *assistance of counsel for the hearing on modification of his sentence without the filing of such petition. No fee*  
 24 *shall be charged for filing a petition under this subsection.*

25 *C. Upon a hearing for modification of a sentence pursuant to this section, the court shall consider that*  
 26 *marijuana has been legalized, and shall reduce, including a reduction to time served, vacate, or otherwise*  
 27 *modify the person's sentence, including removing such person from community supervision, unless the*  
 28 *Commonwealth demonstrates it would not be compatible with the public interest to do so. Any modification of*  
 29 *sentence shall not exceed the original term imposed by the court.*

30 *D. The circuit court shall make a decision as to whether to modify a sentence within 30 days following the*  
 31 *sentence modification hearing. If modification of a sentence is denied, the court shall file with the record of*  
 32 *the case a written explanation for the denial and shall provide a copy of such written explanation to the*  
 33 *person whose sentence was considered for modification, his attorney if he is represented, and to the attorney*  
 34 *for the Commonwealth.*

35 *E. Following the entry of an order to modify a sentence pursuant to this section, the clerk of the circuit*  
 36 *court shall cause a copy of such order to be forwarded to the Virginia Criminal Sentencing Commission, the*  
 37 *Department of State Police, and the state or local correctional facility or secure facility where the petitioner*  
 38 *is incarcerated within five days.*

39 *F. The decision of a circuit court to modify a sentence pursuant to this section shall not form the basis for*  
 40 *any relief in any habeas corpus or appellate proceeding, unless such decision was contrary to law.*

41 **2. That on or before September 1, 2025, the Department of Corrections, sheriff of a local jail, regional**  
 42 **director of a regional jail, and Department of Juvenile Justice, respectively, shall determine which**  
 43 **individuals currently incarcerated in such state correctional facility, local correctional facility, or**  
 44 **secure facility, or placed on community supervision, respectively, meet the criteria for a hearing on the**  
 45 **modification of sentence as set forth in subsection A of § 19.2-303.03 of the Code of Virginia, as created**  
 46 **by this act, and shall (i) provide an electronic list of such individuals to the clerk of each circuit court in**  
 47 **the jurisdiction where the individual was sentenced and (ii) notify all such individuals that they may be**  
 48 **eligible for modification of their sentence, a hearing will be scheduled for such determination, and that**  
 49 **they may file a petition for assistance of counsel and a statement of indigency.**

50 **3. That within 30 days of receiving the electronic list provided under the second enactment of this act,**  
 51 **the clerk of each circuit court shall notify the chief judge of that circuit court who shall subsequently**  
 52 **set a hearing within the timeframes required pursuant to subsection A of § 19.2-303.03 of the Code of**  
 53 **Virginia, as created by this act, for each individual to determine whether to modify such individual's**  
 54 **sentence.**

55 **4. That the provisions of this act shall expire on July 1, 2028.**

ENROLLED

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