

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 18.2-10, 19.2-295.2, 19.2-390, 53.1-134, 53.1-134.1, 53.1-136, 53.1-145, 53.1-157, 53.1-161, 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 2.2-3707.02, relating to powers and duties of Virginia Parole Board; voting requirements; meetings.

[H 1589]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-10, 19.2-295.2, 19.2-390, 53.1-134, 53.1-134.1, 53.1-136, 53.1-145, 53.1-157, 53.1-161, 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 2.2-3707.02 as follows:

§ 2.2-3707.02. Meetings of Virginia Parole Board.

Except for a public meeting convened pursuant to subdivision 10 of § 53.1-136 for conducting the final deliberation and vote regarding whether the Virginia Parole Board will grant parole to a prisoner, a meeting of the Virginia Parole Board members, regardless of whether such members invite staff or other guests to participate in such meeting, shall not be deemed a meeting subject to the provisions of this chapter.

§ 18.2-10. Punishment for conviction of felony; penalty.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. Any person who was 18 years of age or older at the time of the offense and who is sentenced to imprisonment for life upon conviction of a Class 1 felony shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02.

(b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of incarceration of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of ~~post-release supervision~~ *probation* pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

§ 19.2-295.2. Probation 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~~ *probation pursuant to § 19.2-303* upon release from the active term of incarceration. The period of ~~supervision~~ *probation* 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~~ *probation* 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 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 complete 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 probation in accordance with this section shall be conducted in the same manner as procedures for the subject to revocation of parole such probation pursuant to §§ 19.2-306 and 19.2-306.1.~~

C. ~~Postrelease supervision programs shall be operated through the probation and parole districts established pursuant to § 53.1-141.~~

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

§ 19.2-390. Reports to be made by local law-enforcement officers, conservators of the peace, clerks of court, Secretary of the Commonwealth and Corrections officials to State Police; material submitted by other agencies.

A. 1. Every state official or agency having the power to arrest, the sheriffs of counties, the police officials of cities and towns, and any other local law-enforcement officer or conservator of the peace having the power to arrest for a felony shall make a report to the Central Criminal Records Exchange, on forms provided by it, of any arrest, including those arrests involving the taking into custody of, or service of process upon, any person on charges resulting from an indictment, presentment or information, the arrest on *capias* or warrant for failure to appear, and the service of a warrant for another jurisdiction, for each charge when any person is arrested on any of the following charges:

a. Treason;

b. Any felony;

c. Any offense punishable as a misdemeanor under Title 54.1;

d. Any misdemeanor punishable by confinement in jail (i) under Title 18.2 or 19.2, or any similar ordinance of any county, city or town, (ii) under § 20-61, or (iii) under § 16.1-253.2; or

e. Any offense in violation of § 3.2-6570, 4.1-309.1, 5.1-13, 15.2-1612, 22.1-289.041, 46.2-339, 46.2-341.21, 46.2-341.24, 46.2-341.26:3, 46.2-817, 58.1-3141, 58.1-4018.1, 60.2-632, or 63.2-1509.

The reports shall contain such information as is required by the Exchange and shall be accompanied by fingerprints of the individual arrested for each charge. Effective January 1, 2006, the corresponding photograph of the individual arrested shall accompany the report. Fingerprint cards prepared by a law-enforcement agency for inclusion in a national criminal justice file shall be forwarded to the Exchange for transmittal to the appropriate bureau. Nothing in this section shall preclude each local law-enforcement agency from maintaining its own separate photographic database. Fingerprints and photographs required to be taken pursuant to this subsection or subdivision A 3c of § 19.2-123 may be taken at the facility where the magistrate is located, including a regional jail, even if the accused is not committed to jail.

Law-enforcement agencies and clerks of court shall only submit reports to the Central Criminal Records Exchange only for those offenses enumerated in this subsection. Only reports received for those offenses enumerated in this subsection shall be included in the Central Criminal Records Exchange.

2. For persons arrested and released on summonses in accordance with subsection B of § 19.2-73 or § 19.2-74, such report shall not be required until (i) a conviction is entered and no appeal is noted or if an appeal is noted, the conviction is upheld upon appeal or the person convicted withdraws his appeal; (ii) the court defers or dismisses the proceeding pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2; or (iii) an acquittal by reason of insanity pursuant to § 19.2-182.2 is entered. Upon such conviction or acquittal, the court shall remand the individual to the custody of the office of the chief law-enforcement officer of the county or city. It shall be the duty of the chief law-enforcement officer, or his designee who may be the arresting officer, to ensure that such report is completed for each charge after a determination of guilt or acquittal by reason of insanity. The court shall require the officer to complete the report immediately following the person's conviction or acquittal, and the individual shall be discharged from custody forthwith, unless the court has imposed a jail sentence to be served by him or ordered him committed to the custody of the Commissioner of Behavioral Health and Developmental Services.

3. For persons arrested on a *capias* for any allegation of a violation of the terms or conditions of a suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, a report shall be made to the Central Criminal Records Exchange pursuant to subdivision 1. Upon finding such person in violation of the terms or conditions of a suspended sentence or probation for such felony offense, the court shall order that the fingerprints and photograph of such person be taken by a law-enforcement officer for each

119 such offense and submitted to the Central Criminal Records Exchange.

120 4. For any person served with a show cause for any allegation of a violation of the terms or conditions of a
121 suspended sentence or probation for a felony offense pursuant to § 18.2-456, 19.2-306, or 53.1-165, such
122 report to the Central Criminal Records Exchange shall not be required until such person is found to be in
123 violation of the terms or conditions of a suspended sentence or probation for such felony offense. Upon
124 finding such person in violation of the terms or conditions of a suspended sentence or probation for such
125 felony offense, the court shall order that the fingerprints and photograph of such person be taken by a
126 law-enforcement officer for each such offense and submitted to the Central Criminal Records Exchange.

127 5. If the accused is in custody when an indictment or presentment is found or made, or information is
128 filed, and no process is awarded, the attorney for the Commonwealth shall so notify the court of such at the
129 time of first appearance for each indictment, presentment, or information for which a report is required upon
130 arrest pursuant to subdivision 1, and the court shall order that the fingerprints and photograph of the accused
131 be taken for each offense by a law-enforcement officer or by the agency that has custody of the accused at the
132 time of first appearance. The law-enforcement officer or agency taking the fingerprints and photograph shall
133 submit a report to the Central Criminal Records Exchange for each offense.

134 B. Within 72 hours following the receipt of (i) a warrant or capias for the arrest of any person on a charge
135 of a felony or (ii) a Governor's warrant of arrest of a person issued pursuant to § 19.2-92, the
136 law-enforcement agency which received the warrant shall enter the person's name and other appropriate
137 information required by the Department of State Police into the "information systems" known as the Virginia
138 Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2
139 (§ 52-12 et seq.) of Title 52 and the National Crime Information Center (NCIC), maintained by the Federal
140 Bureau of Investigation. The report shall include the person's name, date of birth, social security number and
141 such other known information which the State Police or Federal Bureau of Investigation may require. Where
142 feasible and practical, the magistrate or court issuing the warrant or capias may transfer information
143 electronically into VCIN. When the information is electronically transferred to VCIN, the court or magistrate
144 shall forthwith forward the warrant or capias to the local police department or sheriff's office. When criminal
145 process has been ordered destroyed pursuant to § 19.2-76.1, the law-enforcement agency destroying such
146 process shall ensure the removal of any information relating to the destroyed criminal process from the VCIN
147 and NCIC.

148 B1. Within 72 hours following the receipt of a written statement issued by a parole officer pursuant to §
149 53.1-149 or ~~53.1-162~~ authorizing the arrest of a person who has violated the provisions of his ~~post-release~~
150 ~~supervision~~ or probation, the law-enforcement agency that received the written statement shall enter, or cause
151 to be entered, the person's name and other appropriate information required by the Department of State Police
152 into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and
153 maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52.

154 C. For offenses not charged on a summons in accordance with subsection B of § 19.2-73 or § 19.2-74, the
155 clerk of each circuit court and district court shall make an electronic report to the Central Criminal Records
156 Exchange of (i) any dismissal, including a dismissal pursuant to § 18.2-57.3, 18.2-251, or 19.2-303.2,
157 indefinite postponement or continuance, charge still pending due to mental incompetency or incapacity,
158 deferral, nolle prosequi, acquittal, or conviction of, including any sentence imposed, or failure of a grand jury
159 to return a true bill as to, any person charged with an offense listed in subsection A, including any action that
160 may have resulted from an indictment, presentment or information, or any finding that the person is in
161 violation of the terms or conditions of a suspended sentence or probation for a felony offense and (ii) any
162 adjudication of delinquency based upon an act that, if committed by an adult, would require fingerprints to be
163 filed pursuant to subsection A. For offenses listed in subsection A and charged on a summons in accordance
164 with subsection B of § 19.2-73 or § 19.2-74, such electronic report by the clerk of each circuit court and
165 district court to the Central Criminal Records Exchange may be submitted but shall not be required until (a) a
166 conviction is entered and no appeal is noted or, if an appeal is noted, the conviction is upheld upon appeal or
167 the person convicted withdraws his appeal; (b) the court defers or dismisses the proceeding pursuant to §
168 18.2-57.3, 18.2-251, or 19.2-303.2; or (c) an acquittal by reason of insanity pursuant to § 19.2-182.2 is
169 entered. The clerk of each circuit court shall make an electronic report to the Central Criminal Records
170 Exchange of any finding that a person charged on a summons is in violation of the terms or conditions of a
171 suspended sentence or probation for a felony offense. Upon conviction of any person, including juveniles
172 tried and convicted in the circuit courts pursuant to § 16.1-269.1, whether sentenced as adults or juveniles, for
173 an offense for which registration is required as defined in § 9.1-902, the clerk shall within seven days of
174 sentencing submit a report to the Sex Offender and Crimes Against Minors Registry. The report to the
175 Registry shall include the name of the person convicted and all aliases that he is known to have used, the date
176 and locality of the conviction for which registration is required, his date of birth, social security number, and
177 last known address, and specific reference to the offense for which he was convicted. No report of conviction
178 or adjudication in a district court shall be filed unless the period allowed for an appeal has elapsed and no
179 appeal has been perfected. In the event that the records in the office of any clerk show that any conviction or
180 adjudication has been nullified in any manner, he shall also make a report of that fact to the Exchange and, if

appropriate, to the Registry. In addition, each clerk of a circuit court, upon receipt of certification thereof from the Supreme Court, shall report to the Exchange or the Registry, or to the law-enforcement agency making the arrest in the case of offenses not required to be reported to the Exchange, on forms provided by the Exchange or Registry, as the case may be, any reversal or other amendment to a prior sentence or disposition previously reported. When criminal process is ordered destroyed pursuant to § 19.2-76.1, the clerk shall report such action to the law-enforcement agency that entered the warrant or capias into the VCIN.

D. In addition to those offenses enumerated in subsection A, the Central Criminal Records Exchange may receive, classify, and file any other fingerprints, photographs, and records of confinement submitted to it by any correctional institution or the Department of Corrections. Unless otherwise prohibited by law, any such fingerprints, photographs, and records received by the Central Criminal Records Exchange from any correctional institution or the Department of Corrections may be classified and filed as criminal history record information.

E. Corrections officials, sheriffs, and jail superintendents of regional jails, responsible for maintaining correctional status information, as required by the regulations of the Department of Criminal Justice Services, with respect to individuals about whom reports have been made under the provisions of this chapter shall make reports of changes in correctional status information to the Central Criminal Records Exchange. The reports to the Exchange shall include any commitment to or release or escape from a state or local correctional facility, including commitment to or release from a parole or probation agency.

F. Any pardon, reprieve or executive commutation of sentence by the Governor shall be reported to the Exchange by the office of the Secretary of the Commonwealth.

G. Officials responsible for reporting disposition of charges, and correctional changes of status of individuals under this section, including those reports made to the Registry, shall adopt procedures reasonably designed at a minimum (i) to ensure that such reports are accurately made as soon as feasible by the most expeditious means and in no instance later than 30 days after occurrence of the disposition or correctional change of status and (ii) to report promptly any correction, deletion, or revision of the information.

H. Upon receiving a correction, deletion, or revision of information, the Central Criminal Records Exchange shall notify all criminal justice agencies known to have previously received the information.

I. As used in this section:

"Chief law-enforcement officer" means the chief of police of cities and towns and sheriffs of counties, unless a political subdivision has otherwise designated its chief law-enforcement officer by appropriate resolution or ordinance, in which case the local designation shall be controlling.

"Electronic report" means a report transmitted to, or otherwise forwarded to, the Central Criminal Records Exchange in an electronic format approved by the Exchange. The report shall contain the name of the person convicted and all aliases which he is known to have used, the date and locality of the conviction, his date of birth, social security number, last known address, and specific reference to the offense including the Virginia Code section and any subsection, the Virginia crime code for the offense, and the offense tracking number for the offense for which he was convicted.

§ 53.1-134. Virginia Parole Board; appointment of members.

There shall be a Virginia Parole Board ~~which~~ *(the Board)* that shall consist of up to five members appointed by the Governor and subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in session, then at its next succeeding session. At least one member of the Parole Board shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01. *The term of each member of the Board shall be four years. When a vacancy on the Board occurs, the Governor shall appoint a member to fill such vacancy within 60 days.*

The members of the Parole Board shall serve at the pleasure of the Governor.

§ 53.1-134.1. Board decisions; voting requirements.

~~Notwithstanding any other provision of law or regulation, if the Parole Board adopts a rule or regulation requiring the concurrence~~ *In the case of a person serving life imprisonment for murder of the first degree pursuant to § 18.2-32, the final deliberation and vote of whether to grant such person parole shall be attended by a panel of four or more members of the Parole Board to grant discretionary parole or conditional release, in the event that there are less than four members but at least. In all other cases, the final deliberation and vote shall be attended by a panel of no fewer than three members on of the Parole Board; then such requirement shall be satisfied upon a unanimous vote of all members on the Parole. The Board shall promulgate rules to ensure that such members are randomly assigned to panels and to serve on an equal number of panels, as is reasonably possible.*

A decision to grant discretionary parole shall require the concurrence of a majority of members present for the final deliberation and vote, except that in cases of a person serving life imprisonment for murder of the first degree pursuant to § 18.2-32, a decision to grant discretionary parole shall require the concurrence of four or more of the members present for the final deliberation and vote.

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

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;

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

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

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

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

d. c. Provide that in any case where a person who is released on parole ~~or postrelease supervision~~ 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 his parole ~~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;

4. Revoke parole ~~and any period of postrelease~~ and order the reincarceration of any parolee ~~or felon serving a period of postrelease supervision~~ or impose a condition of participation in any component of the 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~~ *no fewer than three* 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, 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 and instruct him therein; 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 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 treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole; ~~postrelease supervision~~, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

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

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

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

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

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

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

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

11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia, would require the 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 sample or verify that a sample has been taken and accepted into the data bank for DNA analysis in the Commonwealth;

12. Monitor the collection and payment of restitution to the victims of crime for offenders placed on

supervised probation;

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

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

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

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

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

§ 53.1-161. Arrest and return of parolee; warrant; release pending adjudication of violation.

~~A.~~ The Chairman or any member of the Board may at any time upon information or a showing of a violation or a probable violation by any parolee of any of the terms or conditions upon which he was released on parole issue, or cause to be issued, a warrant for the arrest and return of the parolee to the institution from which he was paroled, or to any other correctional facility that may be designated by the Chairman or member. However, a determination of whether a parolee returned to a correctional facility pursuant to this subsection shall be returned to a state or local correctional facility shall be made based on the length of the parolee's original sentence as set forth in § 53.1-20. Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual custody in the facility from which he was paroled, or to any other facility designated by the Chairman or member.

In any case in which the parolee is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the parolee, pending adjudication of the violation charged.

~~B.~~ Upon information or a showing of a violation or a probable violation by any felon serving a period of postrelease supervision of any of the terms or conditions upon which he was released on a postrelease period of supervision, the circuit court of the sentencing jurisdiction may issue, or cause to be issued, a warrant for the arrest and return of the felon serving a period of postrelease supervision to the institution from which he was released, or to any other correctional facility that may be designated by the circuit court. However, a determination of whether a felon serving a period of postrelease supervision returned to a correctional facility pursuant to this subsection shall be returned to a state or local correctional facility shall be made based on the length of the period of postrelease supervision as set at sentencing. Each such warrant shall authorize all officers named therein to arrest and return the felon to actual custody in the facility from which he was released, or to any other facility designated by the circuit court.

In any case in which the felon serving a period of postrelease supervision is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the felon or his attorney, the circuit court of the sentencing jurisdiction shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the felon, pending adjudication of the violation charged.

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

Any probation and parole officer may arrest a parolee ~~or felon serving a period of postrelease supervision~~ without a warrant or may deputize any other officer with power of arrest to do so by a written statement setting forth that the parolee ~~or felon serving a period of postrelease supervision~~ has, in the judgment of the

probation and parole officer, violated one or more of the terms or conditions of his parole ~~or postrelease period of supervision~~. Such a written statement by a probation and parole officer delivered to the officer in charge of any state or local correctional facility shall be sufficient warrant for the detention of the parolee ~~or 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.

2. That the Virginia Parole Board (the Board) shall (i) notify any person serving a period of postrelease supervision under the Board's supervision as of July 1, 2025, that the duration of such person's postrelease supervision shall be moved to the supervision of probation and (ii) provide information on how such person should report to the appropriate probation officer. Any failure of such person serving a period of postrelease supervision to successfully complete the period of postrelease supervision shall be subject to revocation of a suspended sentence pursuant to §§ 19.2-306 and 19.2-306.1 of the Code of Virginia and the procedures for such revocation shall be conducted in the same manner as the procedures for revocation of probation.

3. That any rules adopted by the Virginia Parole Board in accordance with the provisions of § 53.1-136

491 of the Code of Virginia, as amended by this act, shall be approved by the Governor by July 1, 2025.

ENROLLED

HB1589ER