

VIRGINIA ACTS OF ASSEMBLY - 2025 RECONVENED SESSION

CHAPTER 611

An Act to amend and reenact § 19.2-304 of the Code of Virginia, relating to decreasing probation period; criteria for mandatory reduction; work group; report.

[S 936]

Approved April 2, 2025

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-304 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-304. Increasing or decreasing probation period and modification of conditions.

A. The court may subsequently increase ~~or decrease~~ the probation period and may revoke or modify any condition of probation, but only upon a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth. *After fixing the probation period, the court may subsequently decrease the probation period without a hearing if warranted by the defendant's conduct.*

B. Except as provided in subsection D, the defendant's supervised probation period shall be reduced if:

1. The defendant completes a qualifying educational activity, including obtaining a high school diploma, passing high school equivalency testing, completing 15 credit hours with at least a 2.0 grade point average at a postsecondary educational institution, obtaining an academic degree, completing a peer recovery specialist training program approved by the Department of Behavioral Health and Developmental Services, completing a state-certified training program, or completing a vocational or job training program made available by the Department of Corrections or by a community provider approved by the Department of Corrections;

2. The defendant maintains verifiable employment where the defendant is employed at least an average of 30 hours per week;

3. The defendant is in compliance with any state-certified or state-approved mental health or substance abuse treatment program or successfully completes a state-certified or state-approved mental health or substance abuse treatment program;

4. The defendant secures and maintains qualifying health insurance coverage or a qualifying health care plan through Medicaid, a state's insurance marketplace, or his employer or independent purchase; or

5. The defendant has obtained housing and established residence, either through a rental agreement, home ownership, work exchange program, or other method deemed appropriate by the probation officer, within the designated area permitted by his probation.

C. A defendant shall not begin accruing credit for any educational activity, employment, or treatment program described in subsection B until the first day of the first full month that such defendant is on supervised probation. Such credits shall not accrue during any calendar month in which the defendant is found in violation of his supervised probation, including any technical violation as defined in § 19.2-306.1.

D. A defendant may accrue credits from each of subdivisions B 1 through 5 in each six-month reporting period as follows:

1. For every six-month period of qualifying educational activity the defendant completes in accordance with subdivision B 1, the defendant's supervised probation period shall be reduced by 15 days.

2. For every six-month period of verifiable employment the defendant completes in accordance with subdivision B 2, the defendant's supervised probation period shall be reduced by 15 days.

3. For every six-month period of qualifying mental health or substance abuse treatment program compliance or for completion of a qualifying mental health or substance abuse treatment program in accordance with subdivision B 3, the defendant's supervised probation period shall be reduced by 15 days.

4. For every six-month period of verifiable maintenance of qualifying health insurance coverage or a qualifying health care plan in accordance with subdivision B 4, the defendant's supervised probation period shall be reduced by 15 days.

5. For every six-month period of verifiable residency in accordance with subdivision B 5, the defendant's supervised probation period shall be reduced by 15 days.

E. Upon motion of the attorney for the Commonwealth and after notice to the defendant, the court shall conduct a hearing and may revoke any credits the defendant has accrued pursuant to this section for any reason the court deems necessary and in the interest of the health and safety of the public.

F. A defendant's probation officer shall no less than quarterly calculate any reductions to such defendant's supervised probation for any qualifying evidence-based recidivism-reducing activities, including completing qualifying educational activities, maintaining verifiable employment, completing or complying with any state-certified or state-approved mental health or substance abuse treatment program, securing and maintaining qualifying health insurance coverage or a qualifying health care plan, or obtaining and establishing residency under this section.

G. A defendant's probation officer may verify qualifying recidivism-reducing activities through supporting

documentation, which may include the following:

1. For verification of employment, any employer letter, pay stub, or contract;
2. For verification of education and vocation compliance or completion, any facilitator or program letter, report card, or progress report;
3. For verification of mental health or substance abuse treatment program compliance or completion, any facilitator or program letter or progress report;
4. For verification of health insurance coverage or health care plan status, purchase receipts, contracts, or a valid insurance card;
5. For verification of housing and continued residency, rental or mortgage contracts, utility bills, or signed change of address forms from the United States Postal Service; or
6. For verification of any qualifying recidivism-reducing activity, any other approved method of verification by the probation services agency or the Department of Corrections.

A decision by the defendant's probation officer regarding the qualification of any educational activity, employment, or treatment program described in subsection B is final.

H. When the accumulation of time served on probation and any earned reduction is equal to the imposed supervised probation term, and the defendant has satisfied all conditions of his supervised probation, including any court-ordered program or community service hours and complete payment of any restitution, the probation officer shall notify the court of the defendant's reduction in his probation term under this section. Upon receipt of this information, the court shall enter an order discharging the person from supervised probation.

I. The provisions of this section shall not apply to any person sentenced (i) to a mandatory period of at least three years of supervised probation pursuant to § 19.2-303 or (ii) pursuant to § 19.2-303.3 and subject to supervised probation by a local community-based probation services agency established pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1.

J. No defendant shall have his probation reduced pursuant to this section for his participation in any court-ordered treatment.

K. Nothing in this section shall be construed to limit the court's ability to reduce a defendant's period of probation or discharge such defendant from probation under any other provision of law.

2. That the provisions of the first enactment of this act shall not become effective unless reenacted by the 2026 Session of the General Assembly.

3. That the Department of Corrections shall convene a work group with all relevant stakeholders, including the Attorney General or his designee, the Department of Corrections Ombudsman or his designee, the Executive Director of the Virginia Indigent Defense Commission or his designee, the Executive Secretary of the Supreme Court of Virginia or his designee, the Secretary of Health and Human Resources or his designee, and the Secretary of Public Safety and Homeland Security or his designee; representatives from the Virginia Association of Chiefs of Police, the Virginia Association of Commonwealth's Attorneys, the Virginia Probation and Parole Association, the Virginia Sheriffs' Association, and criminal justice reform organizations; and victims of crime or victim advocates. The work group shall identify (i) current practices for community supervision as it relates to monitoring engagement and attainment included in Executive Order 36 (2024) and (ii) recommendations for court-ordered modification of time served on supervised probation. However, no recommendation shall be considered that allows the probationer (a) to receive credits while being in technical violation of his probation as described in § 19.2-306.1 of the Code of Virginia or (b) to receive more than 150 days of credit in one calendar year for a modified term. The work group shall take into consideration the impact of a reduced period of supervised probation on probationers who were released from incarceration early due to sentence reductions pursuant to subsection B of § 53.1-202.3 of the Code of Virginia. The work group shall submit an executive summary and report of its findings and recommendations to the Governor and the General Assembly by November 1, 2025.