26102071D

SENATE BILL NO. 62

Offered January 14, 2026

Prefiled December 15, 2025

A BILL to amend the Code of Virginia by adding a section numbered 19.2-303.03, relating to modification of sentence for marijuana-related offenses.

Patrons—Lucas and Williams Graves

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-303.03 as follows:

§ 19.2-303.03. Modification of sentence for marijuana-related convictions.

A. Notwithstanding other provisions of law or rule of court, if a person who (i) was convicted of a felony offense involving the possession, manufacture, selling, giving, distribution, transportation, or delivery of 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, 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 sentenced to jail or to the Department of Corrections or placed on community supervision as defined in § 53.1-1 for such conviction; and (iii) remains incarcerated in a state or local correctional facility or secure facility, as defined in § 16.1-228, serving the sentence for such conviction or a combination of such convictions or remains on community supervision as defined in § 53.1-1 for such conviction or a combination of such convictions on July 1, 2026, the circuit court that entered the original judgment or order shall schedule a hearing by January 1, 2027, to consider modification of such person's sentence. The Commonwealth shall be made party to the proceeding and receive notice of such hearing.

B. Notwithstanding other provisions of law or rule of court, if a person who (i) was convicted of a felony offense involving the possession, manufacture, selling, giving, distribution, transportation, or delivery of 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, 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, and on the date of such conviction was also convicted of any other offense other than an act of violence as defined in § 19.2-297.1; (ii) was sentenced to jail or to the Department of Corrections or placed on community supervision as defined in § 53.1-1 for such convictions; and (iii) remains incarcerated in a state or local correctional facility or secure facility, as defined in § 16.1-228, serving the sentence for such conviction or a combination of such convictions or remains on community supervision as defined in § 53.1-1 for such conviction or a combination of such convictions on July 1, 2026, the circuit court that entered the original judgment or order shall schedule a hearing by April 1, 2027, to consider modification of such person's sentence. The Commonwealth shall be made party to the proceeding and receive notice of such hearing.

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

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

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

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

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

2. That on or before September 1, 2026, the Department of Corrections, sheriff of a local jail, regional director of a regional jail, and the Department of Juvenile Justice, respectively, shall determine which

INTRODUCED

SB62

2/16/26 12:18

individuals currently incarcerated in such state correctional facility, local correctional facility, or secure facility, or placed on community supervision, respectively, meet the criteria for a hearing on the modification of sentence as set forth in subsections A and B of § 19.2-303.03 of the Code of Virginia, as created by this act, and shall (i) provide an electronic list of such individuals to the clerk of each circuit court in the jurisdiction where the individual was sentenced and (ii) notify all such individuals that they may be eligible for modification of their sentence, that a hearing will be scheduled for such determination, and that they may file a petition for assistance of counsel and a statement of indigency.

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

4. That the provisions of this act shall expire on July 1, 2029.