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## HOUSE BILL NO. 244

House Amendments in [ ] - February 2, 2026

*A BILL to amend and reenact §§ 16.1-309.1, 16.1-330.1, 17.1-805, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3 of the Code of Virginia, relating to robbery.*

## Patron Prior to Engrossment—Delegate Watts

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 16.1-309.1, 16.1-330.1, 17.1-805, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3 of the Code of Virginia are amended and reenacted as follows:

### § 16.1-309.1. Exception as to confidentiality.

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2, or 3 felony, forcible rape, ~~robbery~~ or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

b. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the information as provided in this subdivision.

59       C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a criminal  
60       violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a weapon, a felony  
61       violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of violence" as defined in  
62       subsection A of § 19.2-297.1 if committed by an adult, the judge may, where consideration of the public  
63       interest requires, make the juvenile's name and address available to the public.

64       D. Upon the request of a victim of a delinquent act that would be a felony or that would be a misdemeanor  
65       violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5 if committed by  
66       an adult, the court may order that such victim be informed of the charge or charges brought, the findings of  
67       the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in  
68       § 19.2-11.01.

69       E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant to  
70       § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been  
71       terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

72       F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or other  
73       restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city wherein  
74       the juvenile resides. The chief law-enforcement officer shall only disclose information contained in the court  
75       order to other law-enforcement officers in the conduct of official duties.

76       G. Notwithstanding any other provision of law, where consideration of public safety requires, the  
77       Department and locally operated court service unit shall release information relating to a juvenile's criminal  
78       street gang involvement, if any, and the criminal street gang-related activity and membership of others, as  
79       criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of a juvenile and  
80       shall include the identity or identifying information of the juvenile; however, the Department and local court  
81       service unit shall not release the identifying information of a juvenile not affiliated with or involved in a  
82       criminal street gang unless that information relates to a specific criminal act. Such information shall be  
83       released to any State Police, local police department, sheriff's office, or law-enforcement task force that is a  
84       part of or administered by the Commonwealth or any political subdivision thereof, and that is responsible for  
85       the prevention and detection of crime and the enforcement of the penal, traffic, or highway laws of the  
86       Commonwealth. The exchange of information shall be for the purpose of an investigation into criminal street  
87       gang activity.

88       H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall report  
89       to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland Security a  
90       juvenile who has been detained in a secure facility but only upon an adjudication of delinquency or finding of  
91       guilt for a violent juvenile felony and when there is evidence that the juvenile is in the United States illegally.

92       I. Notwithstanding any other provision of this article, whenever an intake officer proceeds informally  
93       against a juvenile, the Department or local court service unit may disclose only such information as necessary  
94       to enforce any provision of the diversion program to any law-enforcement officer, school principal where  
95       such juvenile attends school, or known victim. Such information shall remain confidential and not be part of  
96       such juvenile's academic record. Additionally, a local court service unit may provide information regarding  
97       the availability and ordering of a protective order and restitution and dispositional information to the victim  
98       in the case.

99       **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition; disclosure  
100       of information; penalty.**

101       A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i)  
102       adjudicated delinquent or convicted of murder or attempted murder, ~~armed~~ robbery *in violation of subdivision*  
103       *B 1, 2, or 3 of § 18.2-58*, any felony sexual assault or malicious wounding, or a felony violation of a  
104       gang-related crime pursuant to Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2; or (ii) convicted at  
105       least three times for offenses which would be felonies or Class 1 misdemeanors if committed by an adult.  
106       Qualifying convictions or adjudications shall include only those for offenses occurring after July 1, 1993.  
107       However, any Serious or Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July  
108       1, 1993, shall be deemed to have been established pursuant to this article and, notwithstanding the limitations  
109       of this subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile  
110       offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed to  
111       state care pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 may continue to be supervised by  
112       SHOCAP until their twenty-first birthday.

113       B. The Serious or Habitual Offender Comprehensive Action Program (SHOCAP) is a multidisciplinary  
114       interagency case management and information sharing system which enables the juvenile and criminal justice  
115       system, schools, and social service agencies to make more informed decisions regarding juveniles who  
116       repeatedly commit serious criminal and delinquent acts. Each SHOCAP shall supervise serious or habitual  
117       juvenile offenders in the community as well as those under probation or parole supervision and enhance  
118       current conduct control, supervision and treatment efforts to provide a more coordinated public safety  
119       approach to serious juvenile crime, increase the opportunity for success with juvenile offenders and assist in  
120       the development of early intervention strategies.

121 C. Any county or city in the Commonwealth may by action of its governing body establish a SHOCAP  
 122 committee. The committee shall consist of representatives from local law enforcement, schools, attorneys for  
 123 the Commonwealth, juvenile court services, juvenile detention centers or group homes, mental and medical  
 124 health agencies, state and local children and family service agencies, and the Department of Juvenile Justice.  
 125 Any county or city which establishes a SHOCAP committee shall, within 45 days of such action, notify the  
 126 Department of Criminal Justice Services. The Department shall issue statewide SHOCAP guidelines and  
 127 provide technical assistance to local jurisdictions on implementation of SHOCAP.

128 D. Each SHOCAP committee shall share among its members and with other SHOCAP committees  
 129 otherwise confidential information on identified serious or habitual juvenile offenders. Every person,  
 130 including members of the SHOCAP committee, who is to receive confidential information pursuant to this  
 131 article shall maintain the confidentiality of that information.

132 All records and reports concerning serious or habitual juvenile offenders made available to members of a  
 133 SHOCAP committee and all records and reports identifying an individual offender which are generated by  
 134 the committee from such reports shall be confidential and shall not be disclosed, except as specifically  
 135 authorized by this article or other applicable law. Disclosure of the information may be made to other staff  
 136 from member agencies as authorized by the SHOCAP committee for the furtherance of case management,  
 137 community supervision, conduct control and locating of the offender for the application and coordination of  
 138 appropriate services. Staff from the member agencies who receive such information will be governed by the  
 139 confidentiality provisions of this article. The staff from the member agencies who will qualify to have access  
 140 to the SHOCAP information shall be limited to those individuals who provide direct services to the offender  
 141 or who provide community conduct control and supervision to the offender.

142 The provisions of this article authorizing information sharing between and among SHOCAP committees  
 143 shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11 of this title  
 144 governing dissemination of court and law-enforcement records concerning juveniles, (ii) Article 5  
 145 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title 37.2 and any  
 146 regulations enacted pursuant thereto governing access to juvenile mental health records, and (iv) Title 63.2  
 147 and any regulations enacted pursuant thereto governing access to records concerning treatments or services  
 148 provided to a juvenile.

149 E. It shall be unlawful for any staff person from a member agency to disclose or to knowingly permit,  
 150 assist or encourage the unauthorized release of any identifying information contained in any reports or  
 151 records received or generated by a SHOCAP committee. A violation of this subsection shall be punishable as  
 152 a Class 3 misdemeanor.

153 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

154 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which shall  
 155 become effective on January 1, 1995. The initial recommended sentencing range for each felony offense shall  
 156 be determined first, by computing the actual time-served distribution for similarly situated offenders, in terms  
 157 of their conviction offense and prior criminal history, released from incarceration during the base period of  
 158 calendar years 1988 through 1992, increased by 13.4 percent, and second, by eliminating from this range the  
 159 upper and lower quartiles. The midpoint of each initial recommended sentencing range shall be the median  
 160 time served for the middle two quartiles and subject to the following additional enhancements:

161 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree  
 162 murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual  
 163 battery shall be further increased by (i) 125 percent in cases in which the defendant has no previous  
 164 conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously been  
 165 convicted of a violent felony offense punishable by a maximum punishment of less than 40 years; or (iii) 500  
 166 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable  
 167 by a maximum punishment of 40 years or more, except that the recommended sentence for a defendant  
 168 convicted of first degree murder who has previously been convicted of a violent felony offense punishable by  
 169 a maximum term of imprisonment of 40 years or more shall be imprisonment for life;

170 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery  
 171 committed prior to July 1, 2021, where, during the commission of such robbery, such person caused serious  
 172 bodily injury to or the death of any other person or used or displayed a firearm [ , as defined in  
 173 § 18.2-308.2:2, ] in a threatening manner, robbery committed on or after July 1, 2021, in violation of  
 174 subdivision B 1 or 2 of § 18.2-58, aggravated malicious wounding, malicious wounding, and any burglary of  
 175 a dwelling house or statutory burglary of a dwelling house or any burglary committed while armed with a  
 176 deadly weapon or any statutory burglary committed while armed with a deadly weapon shall be further  
 177 increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony  
 178 offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony  
 179 offense punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in  
 180 which the defendant has previously been convicted of a violent felony offense punishable by a maximum  
 181 term of imprisonment of 40 years or more;

182 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or

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183 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled  
184 substance, shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted  
185 of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in  
186 cases in which the defendant has previously been convicted of a violent felony offense punishable by a  
187 maximum term of imprisonment of 40 years or more; and

188 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in  
189 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously been  
190 convicted of a violent felony offense punishable by a maximum punishment of less than 40 years and by 300  
191 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable  
192 by a maximum term of imprisonment of 40 years or more.

193 B. For purposes of this chapter, previous convictions shall include prior adult convictions and juvenile  
194 convictions and adjudications of delinquency based on an offense which would have been at the time of  
195 conviction a felony if committed by an adult under the laws of any state, the District of Columbia, or the  
196 United States or its territories.

197 C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2;  
198 solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-32.2,  
199 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of § 18.2-40 or 18.2-41; any  
200 violation of clause (c)(i) or (ii) of subsection B of § 18.2-46.3; any violation of § 18.2-46.5, 18.2-46.6, or  
201 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation of § 18.2-48, 18.2-48.1, or 18.2-49;  
202 any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3, 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53,  
203 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any violation of subsection B of § 18.2-57; any felony violation  
204 of § 18.2-57.2; any violation of § 18.2-58 or 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or  
205 18.2-60.4; any violation of § 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3,  
206 18.2-67.5, or 18.2-67.5:1 involving a third conviction of either sexual battery in violation of § 18.2-67.4 or  
207 attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of  
208 § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any  
209 Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85,  
210 18.2-89, 18.2-90, 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony  
211 violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of  
212 § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling;  
213 any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of  
214 subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1, 18.2-287.2,  
215 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of subsection C of  
216 § 18.2-308.1 or § 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of § 18.2-308.2:2; any  
217 violation of § 18.2-308.3 or 18.2-312; any former felony violation of § 18.2-346; any felony violation of  
218 § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356, 18.2-357, or 18.2-357.1; any  
219 violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of  
220 § 18.2-366; any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of  
221 § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of  
222 § 18.2-374.1; any felony violation of § 18.2-374.1:1; any felony violation of § 18.2-374.3 or 18.2-374.4; any  
223 second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or  
224 18.2-406; any violation of § 18.2-408, 18.2-413, 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or  
225 18.2-433.2; any felony violation of § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477,  
226 18.2-478, 18.2-480, 18.2-481, or 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any  
227 violation of § 53.1-203; any conspiracy or attempt to commit any offense specified in this subsection, or any  
228 substantially similar offense under the laws of any state, the District of Columbia, or the United States or its  
229 territories.

#### 230 § 18.2-46.1. Definitions.

231 As used in this article, unless the context requires a different meaning:

232 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection A of  
233 § 19.2-297.1.

234 "Criminal street gang" means any ongoing organization, association, or group of three or more persons,  
235 whether formal or informal, (i) which has as one of its primary objectives or activities the commission of one  
236 or more criminal activities; (ii) which has an identifiable name or identifying sign or symbol; and (iii) whose  
237 members individually or collectively have engaged in the commission of, attempt to commit, conspiracy to  
238 commit, or solicitation of two or more predicate criminal acts, at least one of which is an act of violence,  
239 provided such acts were not part of a common act or transaction.

240 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3, 18.2-56.1,  
241 18.2-57, or 18.2-57.2, subdivision B 3 or 4 of § 18.2-58, or § 18.2-59, 18.2-83, 18.2-95, 18.2-103.1,  
242 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147, 18.2-248.01, 18.2-248.03,  
243 18.2-255, 18.2-255.2, 18.2-287.4, 18.2-300, 18.2-308.1, 18.2-308.2, 18.2-308.2:01, 18.2-308.4, or  
244 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348, or 18.2-349; (iv) a felony violation

245 of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a felony violation of § 4.1-1101, 18.2-248,  
 246 or 18.2-248.1; (v) any violation of a local ordinance adopted pursuant to § 15.2-1812.2; or (vi) any  
 247 substantially similar offense under the laws of another state or territory of the United States, the District of  
 248 Columbia, or the United States.

249 **§ 18.2-50.3. Enticing, etc., another into a dwelling house with intent to commit certain felonies; 250 penalty.**

251 Any person who commits a violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-48, or 18.2-51.2, subdivision  
 252 B 1, 2, or 3 of § 18.2-58, or § 18.2-61, 18.2-67.1, or 18.2-67.2 within a dwelling house and who, with the  
 253 intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise caused the victim to  
 254 enter such dwelling house is guilty of a Class 6 felony. A violation of this section is a separate and distinct  
 255 felony.

256 **§ 18.2-90. Entering dwelling house, etc., with intent to commit murder, rape, robbery, or arson; 257 penalty.**

258 If any person in the nighttime enters without breaking or in the daytime breaks and enters or enters and  
 259 conceals himself in a dwelling house or an adjoining, occupied outhouse or in the nighttime enters without  
 260 breaking or at any time breaks and enters or enters and conceals himself in any building permanently affixed  
 261 to realty, or any ship, vessel, or river craft or any railroad car; or any automobile, truck, or trailer, if such  
 262 automobile, truck, or trailer is used as a dwelling or place of human habitation, with intent to commit murder,  
 263 rape, robbery *in violation of subdivision B 1, 2, or 3 of § 18.2-58*, or arson in violation of §§ § 18.2-77,  
 264 18.2-79 or § 18.2-80, he ~~shall be deemed~~ is guilty of statutory burglary, ~~which offense shall be~~ a Class 3  
 265 felony. However, if such person was armed with a deadly weapon at the time of such entry, he ~~shall be~~ is  
 266 guilty of a Class 2 felony.

267 **§ 19.2-297.1. Sentence of person twice previously convicted of certain violent felonies.**

268 A. Any person convicted of two or more separate acts of violence when such offenses were not part of a  
 269 common act, transaction, or scheme, and who has been at liberty as defined in § 53.1-151 between each  
 270 conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life imprisonment  
 271 and shall not have all or any portion of the sentence suspended, provided it is admitted, or found by the jury  
 272 or judge before whom he is tried, that he has been previously convicted of two or more such acts of violence.  
 273 For the purposes of this section, "act of violence" means (i) any one of the following violations of Chapter 4  
 274 (§ 18.2-30 et seq.) of Title 18.2:

275 a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);

276 b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);

277 c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);

278 d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);  
 279 e. Robbery *under committed prior to July 1, 2021, where, during the commission of such robbery, such*  
*280 person caused serious bodily injury to or the death of any other person or used or displayed a firearm [ , as*  
*281 defined in § 18.2-308.2:2, ] in a threatening manner or robbery committed on or after July 1, 2021, in*  
*282 violation of subdivision B 1 or 2 of § 18.2-58 and carjacking under § 18.2-58.1;*

283 f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault punishable as a  
 284 felony under Article 7 (§ 18.2-61 et seq.); or

285 g. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of  
 286 § 18.2-79.

287 (ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii) violations  
 288 as a principal in the second degree or accessory before the fact of the provisions enumerated in clause (i) of  
 289 this section.

290 B. Prior convictions shall include convictions under the laws of any state or of the United States for any  
 291 offense substantially similar to those listed under "act of violence" if such offense would be a felony if  
 292 committed in the Commonwealth.

293 The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its intention  
 294 to seek punishment pursuant to this section.

295 C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for parole and  
 296 shall not be eligible for any good conduct allowance or any earned sentence credits under Chapter 6  
 297 (§ 53.1-186 et seq.) of Title 53.1. However, any person subject to the provisions of this section, other than a  
 298 person who was sentenced under subsection A of § 18.2-67.5:3 for criminal sexual assault convictions  
 299 specified in subdivision f, (i) who has reached the age of sixty-five or older and who has served at least five  
 300 years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten  
 301 years of the sentence imposed may petition the Parole Board for conditional release. The Parole Board shall  
 302 promulgate regulations to implement the provisions of this subsection.

303 **§ 53.1-40.02. Conditional release of terminally ill prisoners.**

304 A. As used in this section, "terminally ill" means having a chronic or progressive medical condition  
 305 caused by injury, disease, or illness where the medical prognosis is the person's death within 12 months.

306 B. Any person serving a sentence imposed upon a conviction for a felony offense, except as provided in

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307 subsection C, who is terminally ill may petition the Parole Board for conditional release.

308 C. A person who is terminally ill and is serving a sentence imposed upon a conviction for one of the  
309 following offenses shall not be eligible to petition the Parole Board for conditional release:

310 1. A Class 1 felony;

311 2. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;

312 3. Any violation of § 18.2-40 or 18.2-45;

313 4. Any violation of § 18.2-46.5, subsection A or B of § 18.2-46.6, or § 18.2-46.7;

314 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2,  
315 except for a violation of § 18.2-49.1;

316 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of  
317 Chapter 4 of Title 18.2, any violation of § 18.2-51.7, 18.2-54.1, or 18.2-54.2, or any felony violation of  
318 § 18.2-57.2;

319 7. Any felony violation of § 18.2-60.3;

320 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

321 9. Robbery under *subdivision B 1 or 2 of § 18.2-58 or carjacking under § 18.2-58.1*;

322 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
323 18.2, except, when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3,  
324 § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1;

325 11. Any violation of § 18.2-90 or 18.2-93;

326 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;

327 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 involving a minor  
328 victim;

329 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2 involving a minor  
330 victim, except for a violation of § 18.2-362 or 18.2-370.5 or subsection B of § 18.2-371.1;

331 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 involving a minor  
332 victim, except for a violation of subsection A of § 18.2-374.1:1;

333 16. Any violation of § 18.2-481, 40.1-100.2, or 40.1-103; or

334 17. A second or subsequent felony violation of the following offenses when such offenses were not part of  
335 a common act, transaction, or scheme and such person has been at liberty as defined in § 53.1-151 between  
336 each conviction:

337 a. Voluntary or involuntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2 or  
338 any crime punishable as such;

339 b. Any violation of § 18.2-41 or 18.2-42.1;

340 c. Any violation of subsection C of § 18.2-46.6;

341 d. Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;

342 e. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of  
343 § 18.2-79;

344 f. Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;

345 g. Any violation of subsection A of § 18.2-374.1:1;

346 h. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or

347 i. Any violation of subdivision E 2 of § 40.1-29.

348 D. The Parole Board shall promulgate regulations to implement the provisions of this section.

349 **§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs;  
350 escape; penalty.**

351 A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense  
352 or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court  
353 order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility,  
354 and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration,  
355 assign the offender to a home/electronic incarceration program as a condition of probation, if such program  
356 exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of  
357 Corrections probation and parole district office established pursuant to § 53.1-141. However, any offender  
358 who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be  
359 eligible for participation in the home/electronic incarceration program: (i) first and second degree murder and  
360 voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2  
361 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any  
362 malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery  
363 under *subdivision B 1 or 2 of § 18.2-58 or carjacking under § 18.2-58.1*; or (vi) any criminal sexual assault  
364 punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's  
365 participation in work release employment or educational or other rehabilitative programs as defined in  
366 § 53.1-131 or, as appropriate, in a court-ordered intensive case monitoring program for child support. The  
367 court shall be notified in writing by the director or administrator of the program to which the offender is  
368 assigned of the offender's place of home/electronic incarceration, place of employment, and the location of

369 any educational or rehabilitative program in which the offender participates.

370 B. In any city or county in which a home/electronic incarceration program established pursuant to this  
371 section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or  
372 regional jail, may assign the accused to such a program pending trial if it appears to the court that the accused  
373 is a suitable candidate for home/electronic incarceration.

374 C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is  
375 actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting  
376 jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision  
377 of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and  
378 parole office established pursuant to § 53.1-141. However, if the offender violates any provision of the terms  
379 of the home/electronic incarceration agreement, the offender may have the assignment revoked and, if  
380 revoked, shall be held in the jail facility to which he was originally sentenced. Such person shall be eligible if  
381 his term of confinement does not include a sentence for a conviction of a felony violent crime, a felony  
382 sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with the intent to  
383 manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The court shall retain  
384 authority to remove the offender from such home/electronic incarceration program. The court which  
385 sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail  
386 of the offender's place of home/electronic incarceration and place of employment or other rehabilitative  
387 program.

388 D. The Board may prescribe regulations to govern home/electronic incarceration programs, and the  
389 Director may prescribe rules to govern home/electronic incarceration programs operated under the  
390 supervision of a Department of Corrections probation and parole district office established pursuant to  
391 § 53.1-141.

392 E. Any offender or accused assigned to such a program by the court or sheriff who, without proper  
393 authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been  
394 assigned to work or attend educational or other rehabilitative programs, including a court-ordered intensive  
395 case monitoring program for child support, or the vehicle or route of travel involved in his going to or  
396 returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who is found guilty of  
397 a violation of this section shall be ineligible for further participation in a home/electronic incarceration  
398 program during his current term of confinement.

399 F. The director or administrator of a home/electronic incarceration program who also operates a  
400 residential program may remove an offender from a home/electronic incarceration program and place him in  
401 such residential program if the offender commits a noncriminal program violation. The court shall be notified  
402 of the violation and of the placement of the offender in the residential program.

403 G. The director or administrator of a home/electronic incarceration program may charge the offender or  
404 accused a fee for participating in the program which shall be used for the cost of home/electronic  
405 incarceration equipment. The offender or accused shall be required to pay the program for any damage to the  
406 equipment which is in his possession or for failure to return the equipment to the program.

407 H. Any wages earned by an offender or accused assigned to a home/electronic incarceration program and  
408 participating in work release shall be paid to the director or administrator after standard payroll deductions  
409 required by law. Distribution of the money collected shall be made in the following order of priority to:

- 410 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be  
411 disbursed according to the terms of such order;
- 412 2. Pay any fines, restitution or costs as ordered by the court;
- 413 3. Pay travel and other such expenses made necessary by his work release employment or participation in  
414 an education or rehabilitative program, including the sums specified in § 53.1-150; and
- 415 4. Defray the offender's keep.

416 The balance shall be credited to the offender's account or sent to his family in an amount the offender so  
417 chooses.

418 The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of wages  
419 paid to persons participating in such programs, except programs operated under the supervision of a  
420 Department of Corrections probation and parole district office established pursuant to § 53.1-141, the  
421 withholding of payments, and the disbursement of appropriate funds. The Director shall prescribe rules  
422 governing the receipt of wages paid to persons participating in such programs operated under the supervision  
423 of a Department of Corrections probation and parole district office established pursuant to § 53.1-141, the  
424 withholding of payments, and the disbursement of appropriate funds.

425 I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person charged  
426 with the criminal offense was convicted and sentenced, provided that the sheriff may designate a deputy  
427 sheriff or regional jail administrator to assign offenders to home/electronic incarceration programs pursuant  
428 to this section.

429 **§ 53.1-151. Eligibility for parole.**

430 A. Except as herein otherwise provided, every person convicted of a felony and sentenced and committed

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431 by a court under the laws of this Commonwealth to the Department of Corrections, whether or not such  
432 person is physically received at a Department of Corrections facility, or as provided for in § 19.2-308.1:

433 1. For the first time, shall be eligible for parole after serving one-fourth of the term of imprisonment  
434 imposed, or after serving twelve years of the term of imprisonment imposed if one-fourth of the term of  
435 imprisonment imposed is more than twelve years;

436 2. For the second time, shall be eligible for parole after serving one-third of the term of imprisonment  
437 imposed, or after serving thirteen years of the term of imprisonment imposed if one-third of the term of  
438 imprisonment imposed is more than thirteen years;

439 3. For the third time, shall be eligible for parole after serving one-half of the term of imprisonment  
440 imposed, or after serving fourteen years of the term of imprisonment imposed if one-half of the term of  
441 imprisonment imposed is more than fourteen years;

442 4. For the fourth or subsequent time, shall be eligible for parole after serving three-fourths of the term of  
443 imprisonment imposed, or after serving fifteen years of the term of imprisonment imposed if three-fourths of  
444 the term of imprisonment imposed is more than fifteen years.

445 For the purposes of subdivisions 2, 3 and 4 of subsection A and for the purposes of subsections B1 and  
446 B2, prior commitments shall include commitments to any correctional facility under the laws of any state, the  
447 District of Columbia, the United States or its territories for murder, rape, robbery, forcible sodomy, animate  
448 or inanimate object sexual penetration, aggravated sexual battery, abduction, kidnapping, burglary, felonious  
449 assault or wounding, or manufacturing, selling, giving, distributing or possessing with the intent to  
450 manufacture, sell, give or distribute a controlled substance, if such would be a felony if committed in the  
451 Commonwealth. Only prior commitments interrupted by a person's being at liberty, or resulting from the  
452 commission of a felony while in a correctional facility of the Commonwealth, of any other state or of the  
453 United States, shall be included in determining the number of times such person has been convicted,  
454 sentenced and committed for the purposes of subdivisions 2, 3 and 4 of subsection A. "At liberty" as used  
455 herein shall include not only freedom without any legal restraints, but shall also include release pending trial,  
456 sentencing or appeal, or release on probation or parole or escape. In the case of terms of imprisonment to be  
457 served consecutively, the total time imposed shall constitute the term of the imprisonment; in the case of  
458 terms of imprisonment to be served concurrently, the longest term imposed shall be the term of  
459 imprisonment. In any case in which a parolee commits an offense while on parole, only the sentence imposed  
460 for such offense and not the sentence or sentences or any part thereof from which he was paroled shall  
461 constitute the term of imprisonment.

462 The Department of Corrections shall make all reasonable efforts to determine prior convictions and  
463 commitments of each inmate for the enumerated offenses.

464 B. Persons sentenced to die shall not be eligible for parole. Any person sentenced to life imprisonment  
465 who escapes from a correctional facility or from any person in charge of his custody shall not be eligible for  
466 parole.

467 B1. Any person convicted of three separate felony offenses of (i) murder, (ii) rape, or (iii) robbery by the  
468 presenting of firearms ~~or other deadly weapon~~, [*in violation of subdivision B 1 or 2 of § 18.2-58*] or any  
469 combination of the offenses specified in ~~subdivisions~~ clauses (i), (ii), or (iii) when such offenses were not  
470 part of a common act, transaction, or scheme shall not be eligible for parole. In the event of a determination  
471 by the Department of Corrections that an individual is not eligible for parole under this subsection, the Parole  
472 Board may in its discretion, review that determination, and make a determination for parole eligibility  
473 pursuant to regulations promulgated by it for that purpose. Any determination of the Parole Board of parole  
474 eligibility thereby shall supersede any prior determination of parole ineligibility by the Department of  
475 Corrections under this subsection.

476 B2. Any person convicted of three separate felony offenses of manufacturing, selling, giving, distributing  
477 or possessing with the intent to manufacture, sell, give or distribute a controlled substance, when such  
478 offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in this  
479 section between each conviction, shall not be eligible for parole.

480 C. Any person sentenced to life imprisonment for the first time shall be eligible for parole after serving  
481 fifteen years, except that if such sentence was for a Class 1 felony violation or the first degree murder of a  
482 child under the age of eight in violation of § 18.2-32, he shall be eligible for parole after serving twenty-five  
483 years, unless he is ineligible for parole pursuant to subsection B1 or B2.

484 D. A person who has been sentenced to two or more life sentences, except a person to whom the  
485 provisions of subsection B1, B2, or E of this section are applicable, shall be eligible for parole after serving  
486 twenty years of imprisonment, except that if either such sentence, or both, was or were for a Class 1 felony  
487 violation, and he is not otherwise ineligible for parole pursuant to subsection B1, B2, or E of this section, he  
488 shall be eligible for parole only after serving thirty years.

489 E. A person convicted of an offense and sentenced to life imprisonment after being paroled from a  
490 previous life sentence shall not be eligible for parole.

491 E1. Any person who has been convicted of murder in the first degree, rape in violation of § 18.2-61,  
492 forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery and who has

493 been sentenced to a term of years shall, upon a first commitment to the Department of Corrections, be eligible  
 494 for parole after serving two-thirds of the term of imprisonment imposed or after serving fourteen years of the  
 495 term of imprisonment imposed if two-thirds of the term of imprisonment imposed is more than fourteen  
 496 years. If such person has been previously committed to the Department of Corrections, such person shall be  
 497 eligible for parole after serving three-fourths of the term of imprisonment imposed or after serving fifteen  
 498 years of the terms of imprisonment imposed if three-fourths of the term of imprisonment imposed is more  
 499 than fifteen years.

500 F. If the sentence of a person convicted of a felony and sentenced to the Department is partially  
 501 suspended, he shall be eligible for parole based on the portion of such sentence execution which was not  
 502 suspended.

503 G. The eligibility time for parole as specified in subsections A, C and D of this section may be modified  
 504 as provided in §§ 53.1-191, 53.1-197 and 53.1-198.

505 H. The time for eligibility for parole as specified in subsection D of this section shall apply only to those  
 506 criminal acts committed on or after July 1, 1976.

507 I. The provisions of subdivisions 2, 3 and 4 of subsection A shall apply only to persons committed to the  
 508 Department of Corrections on or after July 1, 1979, but such persons' convictions and commitments shall  
 509 include all felony convictions and commitments without regard to the date of such convictions and  
 510 commitments.

511 **§ 53.1-165.1. Limitation on the application of parole statutes.**

512 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence  
 513 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January  
 514 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January  
 515 1, 1995, shall not be eligible for parole upon that offense.

516 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June 9,  
 517 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated for such  
 518 offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses where the  
 519 victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of § 18.2-67.1; (c)  
 520 object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in violation of § 18.2-67.3;  
 521 (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal knowledge in violation of  
 522 § 18.2-63, 18.2-64.1, or 18.2-64.2.

523 C. The Parole Board shall establish procedures for consideration of parole of persons entitled under  
 524 subsection B or F consistent with the provisions of § 53.1-154.

525 D. Any person who meets eligibility criteria for parole under subsection B and pursuant to § 53.1-151 as  
 526 of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021, allowing for extension of  
 527 time for reasonable cause.

528 E. Notwithstanding the provisions of subsection A or any other provision of this article to the contrary,  
 529 any person sentenced to a term of life imprisonment for a single felony or multiple felonies committed while  
 530 the person was a juvenile and who has served at least 20 years of such sentence shall be eligible for parole  
 531 and any person who has active sentences that total more than 20 years for a single felony or multiple felonies  
 532 committed while the person was a juvenile and who has served at least 20 years of such sentences shall be  
 533 eligible for parole. The Board shall review and decide the case of each prisoner who is eligible for parole in  
 534 accordance with § 53.1-154 and rules adopted pursuant to subdivision 2 of § 53.1-136.

535 F. *Notwithstanding the provisions of subsection C of § 19.2-297.1, the provisions of this article shall  
 536 apply to any person who was sentenced to a term of life imprisonment pursuant to § 19.2-297.1 where (i) at  
 537 least one of the acts of violence committed by such person upon which the life sentence was predicated was  
 538 for robbery in violation of § 18.2-58 committed prior to July 1, 2021, and (ii) such person, during the  
 539 commission of such robbery, did not (a) cause serious bodily injury to or the death of another person or (b)  
 540 use or display a firearm [ , as defined in § 18.2-308.2:2, ] in a threatening manner.*

541 **§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.**

542 A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for a  
 543 conviction for any offense of:

544 1. A Class 1 felony;  
 545 2. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or  
 546 18.2-33;

547 3. Any violation of § 18.2-40 or 18.2-45;

548 4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any person  
 549 results from providing any material support, or of subsection A of § 18.2-46.6;

550 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2;

551 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of  
 552 Chapter 4 of Title 18.2, any violation of § 18.2-51.6 or 18.2-51.7, or any felony violation of § 18.2-57.2;

553 7. Any felony violation of § 18.2-60.3;

554 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

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555        9. Robbery under *subdivision B 1 or 2* of § 18.2-58 or carjacking under § 18.2-58.1;  
556        10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title  
557        18.2;  
558        11. Any violation of § 18.2-90;  
559        12. Any violation of § 18.2-289 or subsection A of § 18.2-300;  
560        13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;  
561        14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, except for a violation of  
562        § 18.2-362 or subsection B or C of § 18.2-371.1;  
563        15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, except for a violation of  
564        subsection A of § 18.2-374.1:1;  
565        16. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any violation of  
566        § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or  
567        17. A second or subsequent violation of the following offenses, in any combination, when such offenses  
568        were not part of a common act, transaction, or scheme and such person has been at liberty as defined in  
569        § 53.1-151 between each conviction:  
570            a. Any felony violation of § 3.2-6571;  
571            b. Voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;  
572            c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;  
573            d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;  
574            e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done  
575        unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;  
576            f. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of  
577        § 18.2-79;  
578            g. Any violation of § 18.2-89 or 18.2-92;  
579            h. Any violation of subsection A of § 18.2-374.1:1;  
580            i. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or  
581            j. Any violation of subdivision E 2 of § 40.1-29.

582        The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation  
583        with programs to which a person is assigned pursuant to § 53.1-32.1.

584        B. For any offense other than those enumerated in subsection A for which sentence credits may be earned,  
585        earned sentence credits shall be awarded and calculated using the following four-level classification system:

586        1. Level I. For persons receiving Level I sentence credits, 15 days shall be deducted from the person's  
587        sentence for every 30 days served. Level I sentence credits shall be awarded to persons who participate in and  
588        cooperate with all programs to which the person is assigned pursuant to § 53.1-32.1 and who have no more  
589        than one minor correctional infraction and no serious correctional infractions as established by the  
590        Department's policies or procedures.

591        2. Level II. For persons receiving Level II sentence credits, 7.5 days shall be deducted from the person's  
592        sentence for every 30 days served. Level II sentence credits shall be awarded to persons who participate in  
593        and cooperate with all programs, job assignments, and educational curriculums to which the person is  
594        assigned pursuant to § 53.1-32.1, but who require improvement in not more than one area as established by  
595        the Department's policies or procedures.

596        3. Level III. For persons receiving Level III sentence credits, 3.5 days shall be deducted from the person's  
597        sentence for every 30 days served. Level III sentence credits shall be awarded to persons who participate in  
598        and cooperate with all programs, job assignments, and educational curriculums to which the person is  
599        assigned pursuant to § 53.1-32.1, but who require significant improvement in two or more areas as  
600        established by the Department's policies or procedures.

601        4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will be  
602        classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job  
603        assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1 or that  
604        person causes substantial security or operational problems at the correctional facility as established by the  
605        Department's policies or procedures.

606        C. A person's classification level under subsection B shall be reviewed at least once annually, and the  
607        classification level may be adjusted based upon that person's participation in and cooperation with programs,  
608        job assignments, and educational curriculums assigned pursuant to § 53.1-32.1. A person's classification and  
609        calculation of earned sentence credits shall not be lowered or withheld due to a lack of programming,  
610        educational, or employment opportunities at the correctional facility at which the person is confined. Records  
611        from this review, including an explanation of the reasons why a person's classification level was or was not  
612        adjusted, shall be maintained in the person's correctional file.

613        D. A person's classification level under subsection B may be immediately reviewed and adjusted  
614        following removal from a program, job assignment, or educational curriculum that was assigned pursuant to  
615        § 53.1-32.1 for disciplinary or noncompliance reasons.

616        E. A person may appeal a reclassification determination under subsection C or D in the manner set forth

617 in the grievance procedure established by the Director pursuant to his powers and duties as set forth in  
618 § 53.1-10.

619 F. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under  
620 § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation  
621 in and cooperation with programs afforded to the juvenile during that portion of the sentence. The  
622 Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's  
623 rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile  
624 offender under § 16.1-285.1.

625 G. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied  
626 to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

627 **2. That any person convicted of robbery under § 18.2-58 of the Code of Virginia, as it was in effect**  
628 **prior to July 1, 2021, where such conviction would have rendered such person ineligible for conditional**  
629 **release pursuant to § 53.1-40.02 of the Code of Virginia, as amended by this act, shall be eligible for**  
630 **conditional release in accordance with the provisions of § 53.1-40.02 of the Code of Virginia, as**  
631 **amended by this act, provided that such person, during the commission of such robbery, did not (i)**  
632 **cause serious bodily injury to or the death of another person or (ii) use or display a firearm in a**  
633 **threatening manner.**

634 **3. That the provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, shall apply**  
635 **retroactively to the entire sentence of any person who is confined in a state correctional facility and**  
636 **participating in the earned sentence credit system on July 1, 2026, who was (i) convicted of robbery**  
637 **under § 18.2-58 of the Code of Virginia, as it was in effect prior to July 1, 2021, provided that such**  
638 **person, during the commission of such robbery, did not (a) cause serious bodily injury to or the death**  
639 **of another person or (b) use or display a firearm in a threatening manner or (ii) convicted of robbery**  
640 **under subdivision B 3 or 4 of § 18.2-58 of the Code of Virginia on or after July 1, 2021. If it is**  
641 **determined that, upon retroactive application of the provisions of § 53.1-202.3 of the Code of Virginia,**  
642 **as amended by this act, the release date of any such person passed prior to the effective date of this act,**  
643 **the person shall be released upon approval of an appropriate release plan and within 60 days of such**  
644 **determination unless otherwise mandated by court order; however, no person shall have a claim for**  
645 **wrongful incarceration pursuant to § 8.01-195.11 of the Code of Virginia on the basis of such**  
646 **retroactive application. If a person is released prior to completion of any reentry programs deemed**  
647 **necessary by the Department of Corrections on the person's most recent annual review or prior to**  
648 **completion of any programs mandated by court order, the person shall be required to complete such**  
649 **programs under probation, provided that probation is mandated by the court and current community**  
650 **resources are sufficient to facilitate completion of such programs.**

ENGROSSED

HB244E