

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

4 [H 26]

5 Approved

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

9 *A. Notwithstanding other provisions of law or rule of court, if a person who (i) was adjudicated*
 10 *delinquent or convicted of a felony offense involving the possession, manufacture, selling, giving,*
 11 *distribution, transportation, or delivery of marijuana in violation of § 18.2-248, 18.2-248.01, 18.2-248.1,*
 12 *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*
 13 *committed prior to July 1, 2021; (ii) was sentenced to jail, to the Department of Juvenile Justice, or to the*
 14 *Department of Corrections or placed on probation pursuant to § 16.1-278.8 or on community supervision as*
 15 *defined in § 53.1-1 for such adjudication or conviction; and (iii) remains incarcerated in a state or local*
 16 *correctional facility or secure facility, as defined in § 16.1-228, serving the sentence for such adjudication or*
 17 *conviction, a combination of such adjudications or convictions, or a violation of probation imposed pursuant*
 18 *to § 16.1-278.8 or community supervision as defined in § 53.1-1 or remains on probation or community*
 19 *supervision for such adjudication or conviction or a combination of such adjudications or convictions on July*
 20 *1, 2026, the court that entered the original judgment or order shall schedule a hearing by January 1, 2027, to*
 21 *consider modification of such person's sentence. The Commonwealth shall be made party to the proceeding*
 22 *and receive notice of such hearing.*

23 *B. Notwithstanding other provisions of law or rule of court, if a person who (i) was adjudicated*
 24 *delinquent or convicted of a felony offense involving the possession, manufacture, selling, giving,*
 25 *distribution, transportation, or delivery of marijuana in violation of § 18.2-248, 18.2-248.01, 18.2-248.1,*
 26 *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*
 27 *committed prior to July 1, 2021, and on the date of such adjudication or conviction was also adjudicated or*
 28 *convicted of any other offense other than an act of violence as defined in § 19.2-297.1; (ii) was sentenced to*
 29 *jail, to the Department of Juvenile Justice, or to the Department of Corrections or placed on probation*
 30 *pursuant to § 16.1-278.8 or on community supervision as defined in § 53.1-1 for such adjudications or*
 31 *convictions; and (iii) remains incarcerated in a state or local correctional facility or secure facility, as*
 32 *defined in § 16.1-228, serving the sentence for such adjudication or conviction, a combination of such*
 33 *adjudications or convictions, or a violation of probation imposed pursuant to § 16.1-278.8 or community*
 34 *supervision as defined in § 53.1-1 or remains on probation or community supervision for such adjudication*
 35 *or conviction or a combination of such adjudications or convictions on July 1, 2026, the court that entered*
 36 *the original judgment or order shall schedule a hearing by April 1, 2027, to consider modification of such*
 37 *person's sentence that was imposed as a result of his adjudication or conviction of a felony offense or*
 38 *offenses listed in clause (i). The Commonwealth shall be made party to the proceeding and receive notice of*
 39 *such hearing.*

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

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

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

55 *F. Following the entry of an order to modify a sentence pursuant to this section, the clerk of the court*
 56 *shall cause a copy of such order to be forwarded to the Virginia Criminal Sentencing Commission, the*

57 *Department of State Police, and the state or local correctional facility or secure facility where the petitioner*
58 *is incarcerated within five days.*

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

61 **2. That on or before September 1, 2026, the Department of Corrections, sheriff of a local jail, regional**
62 **director of a regional jail, and the Department of Juvenile Justice, respectively, shall determine which**
63 **individuals currently incarcerated in such state correctional facility, local correctional facility, or**
64 **secure facility, or placed on community supervision, respectively, meet the criteria for a hearing on the**
65 **modification of sentence as set forth in subsections A and B of § 19.2-303.03 of the Code of Virginia, as**
66 **created by this act, and shall (i) provide an electronic list of such individuals to the clerk of each court**
67 **in the jurisdiction where the individual was sentenced and (ii) notify all such individuals that they may**
68 **be eligible for modification of their sentence, that a hearing will be scheduled for such determination,**
69 **and that they may file a petition for assistance of counsel and a statement of indigency.**

70 **3. That within 30 days of receiving the electronic list provided under the second enactment of this act,**
71 **the clerk of each court shall notify the chief judge or presiding judge of that court who shall**
72 **subsequently set a hearing within the timeframes required pursuant to subsections A and B of**
73 **§ 19.2-303.03 of the Code of Virginia, as created by this act, for each individual to determine whether**
74 **to modify such individual's sentence.**

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