

HOUSE BILL NO. 244

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance and Appropriations

on March 9, 2026)

(Patron Prior to Substitute—Delegate Watts)

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

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-309.1, 16.1-330.1, 17.1-805, 18.2-50.3, 19.2-297.1, 53.1-40.02, 53.1-131.2, 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 *committed prior to July 1, 2021*, 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.

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

interest requires, make the juvenile's name and address available to the public.

D. Upon the request of a victim of a delinquent act that would be a felony or that would be a misdemeanor 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 an adult, the court may order that such victim be informed of the charge or charges brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim" shall be defined as in § 19.2-11.01.

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

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

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

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

I. Notwithstanding any other provision of this article, whenever an intake officer proceeds informally against a juvenile, the Department or local court service unit may disclose only such information as necessary

to enforce any provision of the diversion program to any law-enforcement officer, school principal where such juvenile attends school, or known victim. Such information shall remain confidential and not be part of such juvenile's academic record. Additionally, a local court service unit may provide information regarding the availability and ordering of a protective order and restitution and dispositional information to the victim in the case.

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

A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i) adjudicated delinquent or convicted of murder or attempted murder, armed robbery *committed prior to July 1, 2021, robbery in violation of subdivision B 1, 2, or 3 of §18.2-58*, any felony sexual assault or malicious wounding, or a felony violation of a 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 least three times for offenses which would be felonies or Class 1 misdemeanors if committed by an adult. Qualifying convictions or adjudications shall include only those for offenses occurring after July 1, 1993. However, any Serious or Habitual Offender Comprehensive Action Program (SHOCAP) in existence on July 1, 1993, shall be deemed to have been established pursuant to this article and, notwithstanding the limitations of this subsection, may continue to supervise persons who were being supervised on July 1, 1993. Juvenile offenders under SHOCAP supervision at the time of their eighteenth birthday who have been committed to state care pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 may continue to be supervised by SHOCAP until their twenty-first birthday.

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

C. Any county or city in the Commonwealth may by action of its governing body establish a SHOCAP committee. The committee shall consist of representatives from local law enforcement, schools, attorneys for the Commonwealth, juvenile court services, juvenile detention centers or group homes, mental and medical

health agencies, state and local children and family service agencies, and the Department of Juvenile Justice. Any county or city which establishes a SHOCAP committee shall, within 45 days of such action, notify the Department of Criminal Justice Services. The Department shall issue statewide SHOCAP guidelines and provide technical assistance to local jurisdictions on implementation of SHOCAP.

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

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

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

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

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

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

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

168 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery
169 *committed prior to July 1, 2021, or robbery committed on or after July 1, 2021, in violation of subdivision B*
170 *1 or 2 of § 18.2-58*, aggravated malicious wounding, malicious wounding, and any burglary of a dwelling
171 house or statutory burglary of a dwelling house or any burglary committed while armed with a deadly
172 weapon or any statutory burglary committed while armed with a deadly weapon shall be further increased by
173 (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300
174 percent in cases in which the defendant has previously been convicted of a violent felony offense punishable
175 by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in which the
176 defendant has previously been convicted of a violent felony offense punishable by a maximum term of
177 imprisonment of 40 years or more;

178 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or
179 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II controlled
180 substance, shall be increased by (i) 200 percent in cases in which the defendant has previously been convicted
181 of a violent felony offense punishable by a maximum punishment of less than 40 years or (ii) 400 percent in

cases in which the defendant has previously been convicted of a violent felony offense punishable by a maximum term of imprisonment of 40 years or more; and

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

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

C. For purposes of this chapter, violent felony offenses shall include any felony violation of § 16.1-253.2; 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, 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 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 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; 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, 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 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 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, 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 attempted sexual battery in violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 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 violation of § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of 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, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of subsection C of

§ 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 violation of § 18.2-308.3 or 18.2-312; any former felony violation of § 18.2-346; any felony violation of § 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 violation of former § 18.2-358; any violation of subsection B of § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting in serious bodily injury or disease; any violation of § 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 second or subsequent offense under §§ 18.2-379 and 18.2-381; any felony violation of § 18.2-405 or 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 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, 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 violation of § 53.1-203; any conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar offense under the laws of any state, the District of Columbia, or the United States or its territories.

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

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 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 intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise caused the victim to enter such dwelling house is guilty of a Class 6 felony. A violation of this section is a separate and distinct felony.

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

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

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

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

c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);
d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);
e. Robbery ~~under~~ committed prior to July 1, 2021, or robbery committed on or after July 1, 2021, in violation of subdivision B 1 or 2 of § 18.2-58, and carjacking under § 18.2-58.1;
f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.); or
g. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79.

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

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

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

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

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

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

B. Any person serving a sentence imposed upon a conviction for a felony offense, except as provided in subsection C, who is terminally ill may petition the Parole Board for conditional release.

C. A person who is terminally ill and is serving a sentence imposed upon a conviction for one of the

273 following offenses shall not be eligible to petition the Parole Board for conditional release:

274 1. A Class 1 felony;

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

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

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

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

280 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of
281 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
282 § 18.2-57.2;

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

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

285 9. Robbery ~~under~~ committed prior to July 1, 2021, or robbery committed on or after July 1, 2021, in
286 violation of subdivision B 1 or 2 of § 18.2-58, or carjacking under § 18.2-58.1;

287 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title
288 18.2, except, when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3,
289 § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1;

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

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

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

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

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

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

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

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

- b. Any violation of § 18.2-41 or 18.2-42.1;
- c. Any violation of subsection C of § 18.2-46.6;
- d. Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;
- e. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony violation of § 18.2-79;
- f. Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;
- g. Any violation of subsection A of § 18.2-374.1:1;
- 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
- i. Any violation of subdivision E 2 of § 40.1-29.

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

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

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery ~~under~~ committed prior to July 1, 2021, or robbery committed on or after July 1, 2021, in violation of subdivision B 1 or 2 of § 18.2-58, or carjacking in violation of § 18.2-58.1; or (vi) any criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate, in a court-ordered intensive case monitoring program for child support. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of

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

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

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

354 D. The Board may prescribe regulations to govern home/electronic incarceration programs, and the
355 Director may prescribe rules to govern home/electronic incarceration programs operated under the
356 supervision of a Department of Corrections probation and parole district office established pursuant to
357 § 53.1-141.

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

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

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

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

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the offender's keep.

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

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

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

394 to this section.

395 **§ 53.1-165.1. Limitation on the application of parole statutes.**

396 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence
397 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January
398 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January
399 1, 1995, shall not be eligible for parole upon that offense.

400 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June 9,
401 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated for such
402 offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses where the
403 victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of § 18.2-67.1; (c)
404 object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in violation of § 18.2-67.3;
405 (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal knowledge in violation of
406 § 18.2-63, 18.2-64.1, or 18.2-64.2.

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

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

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

419 *F. Notwithstanding the provisions of subsection C of § 19.2-297.1, the provisions of this article shall*
420 *apply to any person who was sentenced to a term of life imprisonment pursuant to § 19.2-297.1 where (i) at*
421 *least one of the acts of violence committed by such person upon which the life sentence was predicated was*
422 *for robbery in violation of § 18.2-58 committed prior to July 1, 2021, and (ii) such person can prove by a*
423 *preponderance of the evidence that, during the commission of such robbery, he did not (a) cause serious*
424 *bodily injury to or the death of another person or (b) use or display a firearm in a threatening manner.*

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

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

1. A Class 1 felony;

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 18.2-33;

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

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 results from providing any material support, or of subsection A of § 18.2-46.6;

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

6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.) of 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;

7. Any felony violation of § 18.2-60.3;

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

9. Robbery ~~under~~ committed prior to July 1, 2021, or robbery committed on or after July 1, 2021, in violation of subdivision B 1 or 2 of § 18.2-58, or carjacking under § 18.2-58.1;

10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2;

11. Any violation of § 18.2-90;

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

13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;

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

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

16. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any violation of § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or

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

a. Any felony violation of § 3.2-6571;

b. Voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;

c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;

d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;

e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;

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

g. Any violation of § 18.2-89 or 18.2-92;

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

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

j. Any violation of subdivision E 2 of § 40.1-29.

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

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

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

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

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

4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will be

classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1 or that person causes substantial security or operational problems at the correctional facility as established by the Department's policies or procedures.

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

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

E. A person may appeal a reclassification determination under subsection C or D in the manner set forth in the grievance procedure established by the Director pursuant to his powers and duties as set forth in § 53.1-10.

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

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

2. That any person convicted of robbery in violation of § 18.2-58 of the Code of Virginia, as it was in effect after July 1, 2021, where such conviction would have rendered such person ineligible for conditional release pursuant to § 53.1-40.02 of the Code of Virginia, as amended by this act, shall be eligible for conditional release in accordance with the provisions of § 53.1-40.02 of the Code of Virginia, as amended by this act, provided that such person can prove by a preponderance of the evidence that he was not convicted of robbery in violation of subdivision B 1 or 2 of § 18.2-58.

518 3. That the provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, shall apply
519 retroactively to the entire sentence of any person who is confined in a state correctional facility and
520 participating in the earned sentence credit system on July 1, 2026, who was convicted of robbery in
521 violation of § 18.2-58 of the Code of Virginia, as it was in effect after July 1, 2021, provided that such
522 person can prove by a preponderance of the evidence that he was not convicted of robbery in violation
523 of subdivision B 1 or 2 of § 18.2-58. If it is determined that, upon retroactive application of the
524 provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, the release date of any such
525 person passed prior to the effective date of this act, the person shall be released upon approval of an
526 appropriate release plan and within 60 days of such determination unless otherwise mandated by court
527 order; however, no person shall have a claim for wrongful incarceration pursuant to § 8.01-195.11 of
528 the Code of Virginia on the basis of such retroactive application. If a person is released prior to
529 completion of any reentry programs deemed necessary by the Department of Corrections on the
530 person's most recent annual review or prior to completion of any programs mandated by court order,
531 the person shall be required to complete such programs under probation, provided that probation is
532 mandated by the court and current community resources are sufficient to facilitate completion of such
533 programs.

534 4. That any prisoner who believes he satisfies the requirements for release from incarceration pursuant
535 to § 53.1-40.02 or 53.1-202.3 of the Code of Virginia, as amended by this act, and is subsequently
536 denied release by the Department of Corrections shall have the right to file a writ of habeas corpus
537 pursuant to subdivision A 1 of § 8.01-654 to demand his release from incarceration.