



**Virginia Criminal
Sentencing Commission**

June 10, 2024

**Post-Release
Supervision
Violators and
Recent Statutory
Changes**



§ 18.2-10. Punishment for conviction of felony; penalty

The authorized punishments for conviction of a felony are:

- (a) For Class 1 felonies, imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000. Any person who was 18 years of age or older at the time of the offense and who is sentenced to imprisonment for life upon conviction of a Class 1 felony shall not be eligible for (i) parole, (ii) any good conduct allowance or any earned sentence credits under Chapter 6 (§ 53.1-186 et seq.) of Title 53.1, or (iii) conditional release pursuant to § 53.1-40.01 or 53.1-40.02.
- (b) For Class 2 felonies, imprisonment for life or for any term not less than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.
- (c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than 20 years and, subject to subdivision (g), a fine of not more than \$100,000.
- (d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$100,000.
- (e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.
- (f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both.
- (g) Except as specifically authorized in subdivision (e) or (f), the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine.

For any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, except in cases in which the court orders a suspended term of confinement of at least six months, impose an additional term of incarceration of not less than six months nor more than three years, which shall be suspended conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such additional term may only be imposed when the sentence includes an active term of incarceration in a correctional facility.

For a felony offense prohibiting proximity to children as described in subsection A of § 18.2-370.2, the sentencing court is authorized to impose the punishment set forth in that section in addition to any other penalty provided by law.

1975, cc. 14, 15; 1977, c. 492; 1990, c. 788; 1991, c. 7; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, c. 427; 2000, cc. 361, 767, 770; 2003, cc. 1031, 1040; 2006, cc. 36, 733; 2008, c. 579; 2017, cc. 86, 212; 2020, cc. 1115, 1116; 2021, Sp. Sess. I, cc. 344, 345.

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

§ 19.2-295.2. Postrelease supervision of felons sentenced for offenses committed on and after January 1, 1995, and on and after July 1, 2000

A. At the time the court imposes sentence upon a conviction for any felony offense committed (i) on or after January 1, 1995, the court may, and (ii) on or after July 1, 2000, shall, in addition to any other punishment imposed if such other punishment includes an active term of incarceration in a state or local correctional facility, except in cases in which the court orders a suspended term of confinement of at least six months, impose a term of incarceration, in addition to the active term, of not less than six months nor more than three years, as the court may determine. Such additional term shall be suspended and the defendant shall be ordered to be placed under postrelease supervision upon release from the active term of incarceration. The period of supervision shall be established by the court; however, such period shall not be less than six months nor more than three years. Periods of postrelease supervision imposed pursuant to this section upon more than one felony conviction may be ordered to run concurrently. Periods of postrelease supervision imposed pursuant to this section may be ordered to run concurrently with any period of probation the defendant may also be subject to serve.

B. The period of postrelease supervision shall be under the supervision and review of the Virginia Parole Board. The Board shall review each felon prior to release and establish conditions of postrelease supervision. Failure to successfully abide by such terms and conditions shall be grounds to terminate the period of postrelease supervision and recommit the defendant to the Department of Corrections or to the local correctional facility from which he was previously released. Procedures for any such termination and recommitment shall be conducted in the same manner as procedures for the revocation of parole.

C. Postrelease supervision programs shall be operated through the probation and parole districts established pursuant to § [53.1-141](#).

D. Nothing in this section shall be construed to prohibit the court from exercising any authority otherwise granted by law.

1994, 2nd Sp. Sess., cc. [1](#), [2](#);1995, cc. [502](#), [574](#);2000, c. [767](#);2020, cc. [1115](#), [1116](#).

The chapters of the acts of assembly referenced in the historical citation at the end of this section(s) may not constitute a comprehensive list of such chapters and may exclude chapters whose provisions have expired.

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 618

An Act to amend and reenact § 53.1-161 of the Code of Virginia, relating to arrest and return of parolee or felon serving period of postrelease supervision.

[H 2230]

Approved March 26, 2023

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-161 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-161. Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation.

A. The Chairman or any member of the Board may at any time upon information or a showing of a violation or a probable violation by any parolee ~~or felon serving a period of postrelease supervision~~ of any of the terms or conditions upon which he was released on parole ~~or postrelease period of supervision~~, issue, or cause to be issued, a warrant for the arrest and return of the parolee ~~or felon serving a period of postrelease supervision~~ to the institution from which he was paroled, or to any other correctional facility ~~which~~ *that* may be designated by the Chairman or member. However, a determination of whether a parolee ~~or felon serving a period of postrelease supervision~~ returned to a correctional facility pursuant to this ~~section~~ *subsection* shall be returned to a state or local correctional facility shall be made based on the length of the parolee's original sentence as set forth in § 53.1-20 ~~or the period of postrelease supervision as set at sentencing~~. Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual custody in the facility from which he was paroled, or to any other facility designated by the Chairman or member.

In any case in which the parolee ~~or felon serving a period of postrelease supervision~~ is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the parolee, pending adjudication of the violation charged.

B. *Upon information or a showing of a violation or a probable violation by any felon serving a period of postrelease supervision of any of the terms or conditions upon which he was released on a postrelease period of supervision, the circuit court of the sentencing jurisdiction may issue, or cause to be issued, a warrant for the arrest and return of the felon serving a period of postrelease supervision to the institution from which he was released, or to any other correctional facility that may be designated by the circuit court. However, a determination of whether a felon serving a period of postrelease supervision returned to a correctional facility pursuant to this subsection shall be returned to a state or local correctional facility shall be made based on the length of the period of postrelease supervision as set at sentencing. Each such warrant shall authorize all officers named therein to arrest and return the felon to actual custody in the facility from which he was released, or to any other facility designated by the circuit court.*

In any case in which the felon serving a period of postrelease supervision is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the felon or his attorney, the circuit court of the sentencing jurisdiction shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the felon, pending adjudication of the violation charged.

**COMMONWEALTH OF VIRGINIA
ARREST AUTHORITY**

VIRGINIA PROBATION AND PAROLE DISTRICT NO. _____ **2** _____

TO: Any Police Officer _____

AN OFFICER AUTHORIZED TO SERVE CRIMINAL PROCESS:

WHEREAS, _____ WAS ON THE _____
DAY OF _____, _____ CONVICTED OF _____ IN
THE Circuit COURT OF THE City OF [Locality Name]
AND WAS SENTENCED TO SERVE A TERM OF _____ IN JAIL/
THE STATE PENITENTIARY AND WAS ON THE _____ DAY OF _____,
_____ RELEASED ON PROBATION/PAROLE BY THE AUTHORITY OF THE _____
[Locality Name] Circuit Court,

AND, WHEREAS, THE ABOVE-NAMED INDIVIDUAL HAS IN MY JUDGEMENT VIOLATED ONE OR MORE OF THE CONDITIONS UNDER WHICH HE/SHE WAS RELEASED.

NOW, THEREFORE, PURSUANT TO SECTIONS 53.1-145, 53.1-149, AND 53.1-162 CODE OF VIRGINIA,
YOU ARE DIRECTED TO ARREST THE SAID _____
AND SAFELY COMMIT HIM/HER TO THE NEAREST COUNTY/CITY JAIL

WITNESS MY HAND THIS _____ DAY OF _____, _____

Probation and Parole Officer

Deputy Chief Probation and Parole Officer

PROBATION- DRUG COURT/MENTAL HEALTH DOCKET/REENTRY DOCKET

NAME:

SEX: RACE: DOB: HGT: WGT: EYES: HAIR:

MNU: SOC: OFF: OCA: MIS:

Original Offense(s)/Offense(s) Date:

LAST KNOWN ADDRESS:

EXPIRES SIX MONTHS FROM ISSUE DATE: Expires (/ /)

ARRESTING OFFICER'S RETURN

CERTIFICATE OF JAILOR

WAS THIS DAY ARRESTED BY ME
AND COMMITTED TO THE

(DATE)

_____ JAIL

This is to certify that _____

_____, No. _____

an parole/probation delinquent, was confined

in the jail of the county/city of _____

ARRESTING OFFICER

from _____

to _____

at the request of the Virginia Probation and

Parole Board.

TITLE

DATE

(Jailor, Sheriff, Sergeant)

**CAPIAS AND RECOMMITMENT ORDER FOR
POSTRELEASE SUPERVISION VIOLATION**

Commonwealth of Virginia VA. CODE § 53.1-161

Case No.

..... Circuit Court

FELON SERVING POSTRELEASE SUPERVISION:

COMPLETE DATA BELOW IF KNOWN

RACE	SEX	BORN			HT.		WGT.	EYES	HAIR
		MO.	DAY	YR.	FT.	IN.			
SSN									

TO: or any other authorized officer:
DESIGNATION OF OFFICER

You are hereby commanded in the name of the Commonwealth to forthwith arrest the felon named above and to return him/her to the custody of the following [] local [] state correctional facility:

.....
NAME OF CORRECTIONAL FACILITY

.....
ADDRESS OF CORRECTIONAL FACILITY

there having been information or a showing of a violation or a probable violation by a felon serving a period of postrelease supervision of any of the terms or conditions upon which he/she was released.

NOTICE TO CLERK: A copy of this capias shall be promptly provided to the attorney for the Commonwealth, the Department of Corrections, and the Parole Board (PRSemail@vpb.virginia.gov).

.....
DATE ISSUED

.....
JUDGE

EXECUTED by arresting the felon named above on this day:
DATE AND TIME

.....
ARRESTING OFFICER

.....
BADGE NO., AGENCY AND JURISDICTION

for
SHERIFF

.....
DATE