



## **HOUSE BILLS**

**HB 151 Home/electronic incarceration program; deemed to be term of confinement for convicted offender.**

[John M. O'Bannon, III](#) | [all patrons](#) ... [notes](#) | [add](#) to my profiles

*Summary as introduced:*

**Assignment to home/electronic incarceration program.** Provides that home/electronic incarceration is deemed to be a term of confinement for an offender who has been convicted and sentenced to a term of confinement, and that a court can assign home/electronic incarceration without it being a condition of probation. The bill also provides that good conduct credit may be earned by a prisoner assigned to a home/electronic incarceration program.

*Full text:*

[01/05/10 House: Prefiled and ordered printed; offered 01/13/10 10100735D pdf | impact statement](#)

*Status:*

01/05/10 House: Prefiled and ordered printed; offered 01/13/10 10100735D

[01/05/10 House: Referred to Committee on Militia, Police and Public Safety](#)

[01/27/10 House: Assigned MPPS sub: #2](#)

01/28/10 House: Subcommittee recommends laying on the table by voice vote

02/16/10 House: Left in Militia, Police and Public Safety

10100735D

HOUSE BILL NO. 151

Offered January 13, 2010

Prefiled January 5, 2010

A BILL to amend and reenact §§ 53.1-116 and 53.1-131.2 of the Code of Virginia, relating to assignment to home/electronic incarceration program.

Patron—O'Bannon

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-116 and 53.1-131.2 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-116. What records and policy jailer shall keep; how time deducted or added for felons and misdemeanants; payment of fine and costs by person committed to jail until he pays.

A. The jailer shall keep a (i) record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail; (ii) record of each prisoner; and (iii) written policy stating the criteria for and conditions of earned credit in the facility.

Unless he is serving a mandatory minimum sentence of confinement, each prisoner sentenced to 12 months or less for a misdemeanor or any combination of misdemeanors shall earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail prior to conviction and sentencing, in which the prisoner has not violated the written rules and regulations of the jail. Prisoners eligible for parole under §§ 53.1-151, 53.1-152 or §53.1-153 shall earn good conduct credit at a rate of 15 days for each 30 days served with satisfactory conduct.

The jailer may grant the prisoner additional credits for performance of institutional work assignments, participation in classes, or participation in local work force programs, if available at the facility, at the rate of five days for every 30 days served. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail or assigned to a home/electronic incarceration program pursuant to subsection A or C of § 53.1-131.2. It shall be the responsibility of the jailer in each facility to determine the manner in which these additional credits may be awarded and to include this information in the written policy mandated by clause (iii) of this subsection.

For each violation of the rules prescribed herein, the time so deducted shall be added until it equals the full sentence imposed upon the prisoner by the court.

However, any prisoner committed to jail upon a felony offense committed on or after January 1, 1995, shall not earn good conduct credit, sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

B. Notwithstanding the provisions of § 19.2-350, in the event a person who was committed to jail to be therein confined until he pays a fine imposed on him by the court in which he was tried should desire to pay such fine and costs, he may pay the same to the person in charge of the jail. The person receiving such moneys shall execute and deliver an official receipt therefor and shall promptly transmit the amount so paid to the clerk of the court which imposed the fine and costs. Such clerk shall give him an official receipt therefor and shall properly record the receipt of such moneys.

C. The administrator of a local or regional jail shall not assign a person to a home/electronic incarceration program pursuant to subsection C of § 53.1-131.2 in a locality which has a jail operated by a sheriff, without the consent of the sheriff.

§ 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 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. A court may also assign such an offender to home/electronic incarceration without such assignment being a condition of probation. 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)

INTRODUCED

HB151

1/27/10 14:59

59 first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii)  
60 mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under  
61 Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under  
62 Article 4 (§ 18.2-51 et seq.); (v) robbery under § 18.2-58.1; or (vi) any criminal sexual assault  
63 punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's  
64 participation in work release employment or educational or other rehabilitative programs as defined in  
65 § 53.1-131. The court shall be notified in writing by the director or administrator of the program to  
66 which the offender is assigned of the offender's place of home/electronic incarceration, place of  
67 employment, and the location of any educational or rehabilitative program in which the offender  
68 participates.

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

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

87 *D. An assignment to a home/electronic incarceration program is deemed to be a term of confinement*  
88 *for an offender who has been convicted and sentenced to a term of confinement.*

89 *DE.* The Board may prescribe regulations to govern home/electronic incarceration programs.

90 *EF.* Any offender or accused assigned to such a program by the court or sheriff who, without proper  
91 authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been  
92 assigned to work or attend educational or other rehabilitative programs, or the vehicle or route of travel  
93 involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender  
94 or accused who is found guilty of a violation of this section shall be ineligible for further participation  
95 in a home/electronic incarceration program during his current term of confinement.

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

100 *GH.* The director or administrator of a home/electronic incarceration program shall charge the  
101 offender or accused a fee for participating in the program to pay for the cost of home/electronic  
102 incarceration equipment. The offender or accused shall be required to pay the program for any damage  
103 to the equipment which is in his possession or for failure to return the equipment to the program.

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

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

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

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

113 4. Defray the offender's keep.

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

116 The Board of Corrections shall promulgate regulations governing the receipt of wages paid to  
117 persons participating in such programs, the withholding of payments and the disbursement of appropriate  
118 funds.

119 *IJ.* For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person  
120 charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate

**121** a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration  
**122** programs pursuant to this section.

**INTRODUCED**

HB151

**HB 838 Correctional facilities, local; use of state funds for local alternative incarceration programs.**

[Betsy B. Carr](#) | [all patrons](#) ... [notes](#) | [add](#) to my profiles

*Summary as introduced:*

**Local correctional facilities; use of state funds for local alternative incarceration programs.** Allows the use of state funds appropriated for financial assistance for the confinement of persons in local facilities for local alternative incarceration programs.

*Full text:*

[01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10103726D pdf | impact statement](#)

*Status:*

01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10103726D

[01/13/10 House: Referred to Committee on Militia, Police and Public Safety](#)

[01/28/10 House: Assigned MPPS sub: #3](#)

[02/08/10 House: Subcommittee recommends reporting \(5-Y 0-N\)](#)

[02/09/10 House: Assigned App. sub: Public Safety](#)

[02/09/10 House: Reported from Militia, Police and Public Safety \(16-Y 6-N\)](#)

[02/09/10 House: Referred to Committee on Appropriations](#)

02/10/10 House: Subcommittee recommends no action by voice vote

02/16/10 House: Left in Appropriations

10103726D

**HOUSE BILL NO. 838**

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact §§ 53.1-84 and 53.1-86 of the Code of Virginia, relating to use of state funds for local alternative incarceration programs.*

Patrons—Carr; Senator: Hanger

Referred to Committee on Militia, Police and Public Safety

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

**1. That §§ 53.1-84 and 53.1-86 of the Code of Virginia is amended and reenacted as follows:**

§ 53.1-84. State funds available to local correctional facilities for operating costs.

The Compensation Board shall apportion among local correctional facilities moneys appropriated in the general appropriation act for the purpose of financial assistance for the confinement of persons in local facilities in accordance with reports of prisoner days provided by the Department.

The county or city receiving such funds or a combination of counties or cities or both receiving such funds on behalf of a regional facility shall pay therefrom the operating costs of its local adult correctional facilities and programs. Criminal costs prior to confinement shall be paid out of funds appropriated pursuant to § 19.2-332.

*Such funds may also be used to pay for alternative punishment or alternative to incarceration programs for prisoners that would otherwise be housed in a local correctional facility provided that such programs operate under the authority or supervision of the sheriff or local jail board and have been approved by the Department of Corrections or the Department of Criminal Justice Services.*

Regulations adopted by the Board to implement the provisions of §§ 53.1-84 through 53.1-86 shall not be subject to legislative review as provided in § 2.2-4014. In the adoption of such regulations, the Board shall comply with all other requirements of the Administrative Process Act (§ 2.2-4000 et seq.), and in any subsequent amendments thereto shall comply with all the provisions of § 2.2-4012.

§ 53.1-86. Limitation on use of state funds; records of receipts and disbursements.

No locality receiving state funds under § 53.1-85 shall use such funds for any purpose other than for paying expenses incurred as the result of the confinement of persons in local correctional facilities *or participation in local alternative incarceration programs*. The Department shall require a locality to return any portion of state funds expended in violation of this provision to the state treasury. Should an unexpended balance of state funds exist at the end of the apportionment year, the unencumbered funds in such balance may be reverted to the local treasury and subsequently shall be expended for operating expenses of local correctional facilities. In the case of regional correctional facilities, the unexpended balance of state funds shall be apportioned by the regional facility's governing body to the participating localities based on the number of prisoner days of persons confined in the facility from each jurisdiction.

Each locality shall keep records of receipts and disbursements of state funds received pursuant to § 53.1-85. Such records shall be open for evaluation by the Department and audit by the Auditor of Public Accounts.

INTRODUCED

HB838

2/11/10 19:52

**HB 927 Probation program; defendant may participate in immediate sanction thereof.**  
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*Summary as passed: ([all summaries](#))*

**Immediate sanction probation.** Allows the establishment of one immediate sanction probation program in the Commonwealth with a two-year sunset. The bill provides that as a condition of suspension of sentence pursuant to § 19.2-303, a defendant who was not convicted of a violent crime may be ordered to participate in an immediate sanction probation program. An offender arrested for a violation of the conditions of his probation would receive an expedited hearing before the court. An affidavit prepared by his probation and parole officer detailing the offense for which he was arrested may be received into evidence without the officer's testimony. The immediate sanction hearing is not authorized for new criminal offenses or absconding for more than seven days. Such an offender would serve no more than 30 days in jail for a probation offense. The Virginia Criminal Sentencing Commission will evaluate the program.

*Full text:*

[01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10102966D pdf | impact statement](#)  
[02/12/10 House: Committee substitute printed 10104062D-H1 pdf | impact statement](#)  
[03/03/10 Senate: Committee substitute printed 10105839D-S1 pdf](#)

*Status:*

[01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10102966D](#)  
[01/13/10 House: Referred to Committee on Militia, Police and Public Safety](#)  
[01/21/10 House: Assigned MPPS sub: #2](#)  
[01/28/10 House: Subcommittee recommended referring to Courts of Justice by voice vote](#)  
[01/29/10 House: Referred from Militia, Police and Public Safety by voice vote](#)  
[01/29/10 House: Referred to Committee for Courts of Justice](#)  
[01/29/10 House: Assigned Courts sub: #1 Criminal](#)  
[02/12/10 House: Subcommittee recommends reporting with amendment\(s\) \(6-Y 0-N\)](#)  
[02/12/10 House: Reported from Courts of Justice with substitute \(21-Y 0-N\)](#)  
[02/12/10 House: Committee substitute printed 10104062D-H1](#)  
[02/14/10 House: Read first time](#)  
[02/15/10 House: Read second time](#)  
[02/15/10 House: Committee substitute agreed to 10104062D-H1](#)  
[02/15/10 House: Engrossed by House - committee substitute HB927H1](#)  
[02/16/10 House: Read third time and passed House BLOCK VOTE \(99-Y 0-N\)](#)  
[02/16/10 House: VOTE: BLOCK VOTE PASSAGE \(99-Y 0-N\)](#)  
[02/17/10 Senate: Constitutional reading dispensed](#)  
[02/17/10 Senate: Referred to Committee for Courts of Justice](#)  
[02/26/10 Senate: Assigned Courts sub: Criminal](#)  
[03/03/10 Senate: Reported from Courts of Justice with substitute \(14-Y 0-N\)](#)  
[03/03/10 Senate: Committee substitute printed 10105839D-S1](#)  
[03/05/10 Senate: Constitutional reading dispensed \(39-Y 0-N\)](#)  
[03/08/10 Senate: Read third time](#)  
[03/08/10 Senate: Reading of substitute waived](#)  
[03/08/10 Senate: Committee substitute agreed to 10105839D-S1](#)



03/08/10 Senate: Engrossed by Senate - committee substitute HB927S1

[03/08/10 Senate: Passed Senate with substitute \(40-Y 0-N\)](#)

03/09/10 House: Placed on Calendar

03/10/10 House: Passed by for the day

03/11/10 House: Senate substitute agreed to by House 10105839D-S1 (96-Y 0-N)

[03/11/10 House: VOTE: --- ADOPTION \(96-Y 0-N\)](#)

10102966D

HOUSE BILL NO. 927  
Offered January 13, 2010  
Prefiled January 13, 2010

A BILL to amend the Code of Virginia by adding a section numbered 19.2-303.5, relating to expedited review of probation violations.

Patron—Bell, Robert B.

Referred to Committee on Militia, Police and Public Safety

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

**1. That the Code of Virginia is amended by adding a section numbered 19.2-303.5 as follows:**

§ 19.2-303.5. *Terms of suspension or modification of sentence; conditions for expedited review of probation violations.*

*As a condition of suspension of sentence pursuant to § 19.2-303, the defendant may participate in expedited review of probation violations. An offender may request expedited review and, if the court deems the offender a proper candidate, the court may so order, or the court, on its own motion may recommend participation by the offender and order such participation upon the agreement of the offender.*

*Any offender who participates in expedited review shall agree, in the event he is arrested for a violation of the conditions of his probation, (i) to a hearing before the court as soon as possible after his arrest, (ii) that he shall not be entitled to counsel except as otherwise provided herein, (iii) that he shall not be entitled to release on bail pending the hearing, (iv) that an affidavit prepared by his probation and parole officer detailing the offense for which he was arrested may be received into evidence without testimony by the officer or right of confrontation by the offender, (v) that the offenses for which participation in the expedited review process is authorized are violations of terms and conditions set by the court pursuant to § 19.2-303 and do not include new criminal offenses, (vi) that he may be subject to random and more frequent drug testing than would be required of a person not participating in expedited review, and (vii) that he is subject to arrest pursuant to a probation officer's violation letter authorized by § 53.1-162.*

*Any court that places an offender in expedited review shall (i) give such offender's probation violation hearings priority on its docket, (ii) not impose upon him jail time of more than 30 days for a probation violation that is not a new criminal offense, (ii) make available to the offender the best available drug treatment resources, as appropriate, (iii) increase the severity of sanctions over time, during the probation period, that may be imposed for noncompliance with terms and conditions, including the sanction of jail time, when the offender has demonstrated to the court an unwillingness to comply with the terms and conditions imposed upon him and (iv) reduce the severity of sanctions over time, during the probation period, that may be imposed for noncompliance with terms and conditions, including the sanction of jail time, after the offender has demonstrated to the court a willingness to comply with the terms and conditions imposed upon him.*

*An offender who elects to participate in expedited review shall appear at any probation revocation hearing before the court without an attorney, provided that, at the time of the hearing, if the offender elects to have an attorney represent him, he may be so represented. If he elects to have an attorney represent him, he shall have waived participation in the expedited review process. The court shall advise the offender that he is not eligible for the expedited review process, set bail as appropriate, appoint counsel if the offender is indigent, and set a new date for hearing.*

INTRODUCED

HB927

1/27/10 15:1

10105839D

**HOUSE BILL NO. 927**

**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice  
on March 3, 2010)

(Patron Prior to Substitute—Delegate Bell, Robert B.)

A *BILL to establish a pilot immediate sanction probation program.*

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

**1. § 1.** *That there may be established in the Commonwealth one immediate sanction probation program in accordance with the following provisions:*

A. *As a condition of a sentence suspended pursuant to § 19.2-303 of the Code of Virginia, a court may order a defendant convicted of a crime, other than a violent crime as defined in subsection C of § 17.1-805 of the Code of Virginia, to participate in an immediate sanction probation program.*

B. *If a participating offender fails to comply with any term or condition of his probation and the alleged probation violation is not that the offender committed a new crime or infraction, (i) his probation officer shall immediately issue a noncompliance letter pursuant to § 53.1-149 of the Code of Virginia authorizing his arrest at any location in the Commonwealth and (ii) his probation violation hearing shall take priority on the court's docket. The probation officer may, in any event, exercise any other lawful authority he may have with respect to the offender.*

C. *When a participating offender is arrested pursuant to subsection B, the court shall conduct an immediate sanction hearing unless (i) the alleged probation violation is that the offender committed a new crime or infraction; (ii) the alleged probation violation is that the offender absconded for more than seven days; or (iii) the offender, attorney for the Commonwealth, or the court objects to such immediate sanction hearing. If the court conducts an immediate sanction hearing, it shall proceed pursuant to subsection D. Otherwise, the court shall proceed pursuant to § 19.2-306 of the Code of Virginia.*

D. *At the immediate sanction hearing, the court shall receive the noncompliance letter, which shall be admissible as evidence, and may receive other evidence. If the court finds good cause to believe that the offender has violated the terms or conditions of his probation, it may (i) revoke no more than 30 days of the previously suspended sentence and (ii) continue or modify any existing terms and conditions of probation. If the court does not modify the terms and conditions of probation or remove the defendant from the program, the previously ordered terms and conditions of probation shall continue to apply. The court may remove the offender from the immediate sanction probation program at any time.*

**2. That the Virginia Criminal Sentencing Commission shall report to the Chairmen of the House and Senate Courts of Justice Committees on or before January 12, 2012, on the operation and costs of the immediate sanction probation program, including statistics on the characteristics of the participants and the outcomes of their participation.**

**3. That the Virginia Criminal Sentencing Commission may calculate the impact of a revocation of a suspended sentence pursuant to this section differently than the revocation of a sentence pursuant to § 19.2-306 of the Code of Virginia.**

**4. That the provisions of this act shall expire on July 1, 2012.**

**SENATE SUBSTITUTE**

**HB927SI**

3/5/10 3:46

**HB 935 Assault and battery; adult allows child to be present during assault, guilty of Class 6 felony.**

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*Summary as introduced:*

**Assault and battery against family or household member; penalty.** Makes it a Class 6 felony for an adult having a custodial relationship over a child under the age of 18 to knowingly allow the child to be present during the assault and battery of a family or household member.

*Full text:*

[01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10102331D pdf | impact statement](#)

*Status:*

01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10102331D

[01/13/10 House: Referred to Committee for Courts of Justice](#)

02/16/10 House: Left in Courts of Justice

10102331D

**HOUSE BILL NO. 935**

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to assault and battery against family or household member; child present; penalty.*

Patron—Bell, Robert B.

Referred to Committee for Courts of Justice

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

**1. That § 18.2-57.2 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-57.2. Assault and battery against a family or household member; penalty.

A. Any person who commits an assault and battery against a family or household member is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within a period of 20 years, and each of which occurred on a different date, such person is guilty of a Class 6 felony.

C. Any person 18 years of age or older who maintains a custodial relationship over a child under the age of 18, including but not limited to a parent, stepparent, grandparent, or stepgrandparent, or who stands in loco parentis with respect to such child, and who knowingly allows that child to be present in the same dwelling, apartment as defined in § 55-79.2, unit of a hotel as defined in § 35.1-1, garage, shed, or vehicle during the assault and battery of a family or household member shall be guilty of a Class 6 felony.

D. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

DE. The definition of "family or household member" in § 16.1-228 applies to this section.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 781 of the Acts of Assembly of 2009 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**

INTRODUCED

HB935

1/15/10 15:34

## **HB 1394 Misdemeanors; appointment of counsel, imposition of penalty of incarceration in certain cases.**

[William H. Cleaveland](#) | [all patrons](#) ... [notes](#) | [add](#) to my profiles

*Summary as passed House: (all summaries)*

### **Appointment of counsel; imposition of penalty of incarceration in certain misdemeanor cases.**

Provides that if a criminal charge against an accused is a misdemeanor or in a class of misdemeanors the penalty for which may be incarceration, a penalty of incarceration may be imposed and an attorney appointed by a court in the case of indigence if the prosecuting attorney advises the court that he seeks incarceration in such class of cases, or in the instant case. The bill also provides that if the prosecuting attorney advises the court that he does not seek incarceration in such case or class of cases, the court may try the case without appointing counsel, and in such event no sentence of incarceration shall be imposed. The bill contains a sunset date of July 1, 2013.

*Full text:*

[02/24/10 House: Presented and ordered printed 10105541D pdf](#)

[03/03/10 House: Committee substitute printed 10105748D-H1 pdf | impact statement](#)

*Status:*

02/24/10 House: Introduced at the request of Governor

02/24/10 House: Presented and ordered printed 10105541D

[02/24/10 House: Referred to Committee for Courts of Justice](#)

[02/25/10 House: Assigned Courts sub: #1 Criminal](#)

[03/03/10 House: Reported from Courts of Justice with substitute \(14-Y 5-N\)](#)

03/03/10 House: Committee substitute printed 10105748D-H1

[03/03/10 House: Referred to Committee on Appropriations](#)

[03/04/10 House: Assigned App. sub: General Government](#)

[03/08/10 House: Subcommittee recommends reporting \(7-Y 0-N\)](#)

[03/08/10 House: Reported from Appropriations \(21-Y 0-N\)](#)

03/09/10 House: Read first time

03/10/10 House: Read second time

03/10/10 House: Committee substitute agreed to 10105748D-H1

03/10/10 House: Passed by for the day

03/11/10 House: Read second time

03/11/10 House: Pending question ordered

03/11/10 House: Engrossed by House - committee substitute HB1394H1

03/11/10 House: Constitutional reading dispensed (84-Y 14-N)

[03/11/10 House: VOTE: --- AGREE TO \(84-Y 14-N\)](#)

03/11/10 House: Passed House (54-Y 40-N 3-A)

[03/11/10 House: VOTE: --- PASSAGE \(54-Y 40-N 3-A\)](#)

03/11/10 Senate: Constitutional reading dispensed

[03/11/10 Senate: Referred to Committee for Courts of Justice](#)

[03/12/10 Senate: Passed by indefinitely in Courts of Justice \(8-Y 4-N\)](#)

10105748D

**HOUSE BILL NO. 1394**

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 (Proposed by the House Committee for Courts of Justice  
 on March 3, 2010)

(Patron Prior to Substitute—Delegate Cleaveland)

A BILL to amend and reenact §§ 19.2-157 and 19.2-160 of the Code of Virginia, relating to incarceration option for certain misdemeanors.

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

**1. That §§ 19.2-157 and 19.2-160 of the Code of Virginia are amended and reenacted as follows:**

§ 19.2-157. Duty of court when accused appears without counsel.

Except as may otherwise be provided in §§ 16.1-266 through 16.1-268, and subject to the provisions of subsection B of § 19.2-160, whenever a person charged with a criminal offense the penalty for which may be death or confinement in the state correctional facility or jail, including charges for revocation of suspension of imposition or execution of sentence or probation, appears before any court without being represented by counsel, the court shall inform him of his right to counsel. The accused shall be allowed a reasonable opportunity to employ counsel or, if appropriate, the statement of indigence provided for in § 19.2-159 may be executed.

§ 19.2-160. Appointment of counsel or waiver of right.

A. If the charge against the accused is a crime the penalty for which may be incarceration, and the accused is not represented by counsel, the court shall ascertain by oral examination of the accused whether or not the accused desires to waive his right to counsel.

In the event the accused desires to waive his right to counsel, and the court ascertains that such waiver is voluntary and intelligently made, then the court shall provide the accused with a statement to be executed by the accused to document his waiver. The statement shall be in a form designed and provided by the Supreme Court. Any executed statement herein provided for shall be filed with and become a part of the record of such proceeding.

In the absence of a waiver of counsel by the accused, and if he shall claim that he is indigent, the court shall proceed in the same manner as is provided in § 19.2-159.

Should the defendant refuse or otherwise fail to sign either of the statements described in this section and § 19.2-159, the court shall note such refusal on the record. Such refusal shall be deemed to be a waiver of the right to counsel, and the court, after so advising the accused and offering him the opportunity to rescind his refusal shall, if such refusal is not rescinded and the accused's signature given, proceed to hear and decide the case.

~~B. However, if, prior to the commencement of the trial, the court states in writing, either upon the request of the attorney for the Commonwealth or, in the absence of the attorney for the Commonwealth, upon the court's own motion, that a sentence of incarceration will not be imposed if the defendant is convicted, in any misdemeanor case or class of misdemeanor cases for which a sentence of incarceration may by law be imposed, but is not mandatory, the prosecuting attorney shall advise the court, prior to the appointment of counsel for the defendant, whether or not he seeks a sentence of incarceration in such case or class of cases should be imposed if the accused is convicted.~~

If the prosecuting attorney advises the court that he does not seek a sentence of incarceration in such case or class of cases, the court may try the case without appointing counsel, and in such event no sentence of incarceration shall be imposed.

If the prosecuting attorney advises the court that the imposition of a sentence of incarceration should remain an option in the case or class of cases or if he rescinds his previous advice that incarceration not be imposed in the case or class of cases, the court shall proceed in the same manner as is provided in § 19.2-159 and subsection A of this section.

For purposes of this section, "prosecuting attorney" means the attorney for the Commonwealth in the jurisdiction where the case will be tried, and when the prosecution is for a violation of a local ordinance, the attorney who prosecutes ordinance violations for the locality.

**2. That the provisions of this act shall expire on July 1, 2013.**

HOUSE  
SUBSTITUTE

HB1394H1

3/10/10 20:35







## **SENATE BILLS**

**SB 615 Conditions of sentence suspension; allows credits to be applied toward reducing offender's time.**

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*Summary as introduced:*

**Conditions of sentence suspension, etc.; credits toward reducing length of probation.** Requires the Department of Corrections to develop a supervision plan for every offender placed on supervised probation and allows for credits to be applied toward reducing the offender's time on supervised probation by as much as one-half based on the achievement of goals established by the Department. The application of credits is to be determined by the chief probation and parole officer and does not require court action.

*Full text:*

[01/15/10 Senate: Presented and ordered printed 10103374D pdf | impact statement](#)

*Status:*

01/15/10 Senate: Presented and ordered printed 10103374D

[01/15/10 Senate: Referred to Committee for Courts of Justice](#)

[01/18/10 Senate: Assigned Courts sub: Criminal](#)

[02/03/10 Senate: Stricken at the request of Patron in Courts of Justice \(15-Y 0-N\)](#)

10103374D

SENATE BILL NO. 615

Offered January 15, 2010

A BILL to amend and reenact § 19.2-303 of the Code of Virginia, relating to conditions of sentence suspension, etc.; credits toward reducing length of probation.

Patron—Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-303 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-303. Suspension or modification of sentence; probation; taking of fingerprints and blood, saliva, or tissue sample as condition of probation.

After conviction, whether with or without jury, the court may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the defendant on probation under such conditions as the court shall determine or may, as a condition of a suspended sentence, require the defendant to make at least partial restitution to the aggrieved party or parties for damages or loss caused by the offense for which convicted, or to perform community service, or both, under terms and conditions which shall be entered in writing by the court. If, however, the court suspends or modifies any sentence fixed by a jury pursuant to § 19.2-295, the court shall file a statement of the reasons for the suspension or modification in the same manner as the statement required pursuant to subsection B of § 19.2-298.01. The judge, after convicting the defendant of a felony, shall determine whether a copy of the defendant's fingerprints are on file at the Central Criminal Records Exchange. In any case where fingerprints are not on file, the judge shall require that fingerprints be taken as a condition of probation. Such fingerprints shall be submitted to the Central Criminal Records Exchange under the provisions of subsection D of § 19.2-390.

In those courts having electronic access to the Local Inmate Data System (LIDS) within the courtroom, prior to or upon sentencing, the clerk of court shall also determine by reviewing LIDS whether a blood, saliva, or tissue sample has been taken for DNA analysis and submitted to the DNA data bank maintained by the Department of Forensic Science pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of this title. In any case in which the clerk has determined that a DNA sample or analysis is not stored in the DNA data bank, or in any case in which electronic access to LIDS is not available in the courtroom, the court shall order that the defendant appear within 30 days before the sheriff or probation officer and allow the sheriff or probation officer to take the required sample. The order shall also require that, if the defendant has not appeared and allowed the sheriff or probation officer to take the required sample by the date stated in the order, then the sheriff or probation officer shall report to the court the defendant's failure to appear and provide the required sample.

After conviction and upon sentencing of an active participant or member of a criminal street gang, the court may, as a condition for suspending the imposition of the sentence in whole or in part or for placing the accused on probation, place reasonable restrictions on those persons with whom the accused may have contact. Such restrictions may include prohibiting the accused from having contact with anyone whom he knows to be a member of a criminal street gang, except that contact with a family or household member, as defined in § 16.1-228, shall be permitted unless expressly prohibited by the court.

In any case where a defendant is convicted of a violation of § 18.2-48, 18.2-61, 18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1, committed on or after July 1, 2006, and some portion of the sentence is suspended, the judge shall order that the period of suspension shall be for a length of time at least equal to the statutory maximum period for which the defendant might originally have been sentenced to be imprisoned, and the defendant shall be placed on probation for that period of suspension subject to revocation by the court. The conditions of probation may include such conditions as the court shall determine, including active supervision. Where the conviction is for a violation of clause (iii) of subsection A of § 18.2-61, subdivision A 1 of § 18.2-67.1, or subdivision A 1 of § 18.2-67.2, the court shall order that at least three years of the probation include active supervision of the defendant under a postrelease supervision program operated by the Department of Corrections, and for at least three years of such active supervision, the defendant shall be subject to electronic monitoring by means of a GPS (Global Positioning System) tracking device, or other similar device.

If, as a condition of the suspension of sentence and placement on probation, an offender is placed under active supervision of the district probation and parole office, the offender may earn credits toward the reduction of the period of supervision. The credits may be earned upon achievement of specified goals. In any case in which an offender is placed on supervised probation, the Department of

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SB615

1/15/10 23:56

59 *Corrections shall develop a supervision plan specifically for that offender, taking into account his*  
60 *offense and the results of any assessment conducted by the Department. The plan shall set out specific*  
61 *goals for the offender to achieve and the credits toward reduction of the period of active supervision*  
62 *that may be earned upon completion of each goal. In addition to any other goals developed specifically*  
63 *for the offender, any such plan shall include the goals of avoiding the use of illegal substances,*  
64 *obtaining a job, and retaining a job for a specified period of time. The court shall have the option of*  
65 *reviewing the plan and approving it or modifying it. When an offender achieves a specified goal, the*  
66 *period of active supervision shall be reduced in accordance with the credit associated with that goal.*  
67 *For an offender for whom the court has specified a period of supervision, the maximum reduction in the*  
68 *period of active supervision that the offender may earn in this manner shall be 50 percent. For an*  
69 *offender for whom the court has not set a definite period of supervision, the chief probation and parole*  
70 *officer shall, after the offender has achieved the goals in the plan and has been under supervised*  
71 *probation for at least 12 months, remove the offender from active supervision unless he feels that doing*  
72 *so would pose a risk to public safety. In such a case, the chief probation and parole officer shall keep*  
73 *the offender under active supervision until he feels that he can be taken off such supervision without*  
74 *endangering public safety. In any case, the court may reduce the period of active supervision further.*  
75 *However, the period of active supervision of any offender convicted of a violation of § 18.2-48, 18.2-61,*  
76 *18.2-63, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-370, or 18.2-370.1 shall not be reduced in accordance*  
77 *with the provisions of this paragraph. Furthermore, any reduction in active supervision shall have no*  
78 *effect on the suspension of sentence or on the period under which the offender is under probation.*

79 *If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any*  
80 *time before the sentence has been completely served, suspend the unserved portion of any such sentence,*  
81 *place the person on probation for such time as the court shall determine, or otherwise modify the*  
82 *sentence imposed.*

83 *If a person has been sentenced for a felony to the Department of Corrections but has not actually*  
84 *been transferred to a receiving unit of the Department, the court which heard the case, if it appears*  
85 *compatible with the public interest and there are circumstances in mitigation of the offense, may, at any*  
86 *time before the person is transferred to the Department, suspend or otherwise modify the unserved*  
87 *portion of such a sentence. The court may place the person on probation for such time as the court shall*  
88 *determine.*

**SB 617 Criminal procedure; sentencing revocation report worksheets.**

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*Summary as introduced:*

**Criminal procedure; sentencing revocation report worksheets.** Requires sentencing revocation report worksheets in all probation revocation and sentence suspension revocation cases in which the defendant was under the direct supervision of the probation and parole district office.

*Full text:*

[01/15/10 Senate: Presented and ordered printed 10103373D pdf | impact statement](#)

*Status:*

[01/15/10 Senate: Presented and ordered printed 10103373D](#)

[01/15/10 Senate: Referred to Committee for Courts of Justice](#)

[01/18/10 Senate: Assigned Courts sub: Criminal](#)

[02/03/10 Senate: Stricken at the request of Patron in Courts of Justice \(15-Y 0-N\)](#)

10103373D

SENATE BILL NO. 617

Offered January 15, 2010

A BILL to amend and reenact §§ 19.2-298.01 and 19.2-306 of the Code of Virginia, relating to sentencing revocation report worksheets.

Patron—Howell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-298.01 and 19.2-306 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-298.01. Use of discretionary sentencing guidelines.

A. In all felony cases, other than Class 1 felonies, and in all probation revocation and sentence suspension revocation cases in which the defendant was under the direct supervision of the probation and parole district office, the court shall (i) have presented to it the appropriate discretionary sentencing guidelines or sentencing revocation report worksheets and (ii) review and consider the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 8 (§ 17.1-800 et seq.) of Title 17.1 or sentencing revocation report, as appropriate. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In cases tried by a jury, the jury shall not be presented any information regarding sentencing guidelines.

B. In any felony case, other than Class 1 felonies, in which the court imposes a sentence which is either greater or less than that indicated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.

C. In felony cases, other than Class 1 felonies, tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty and in all probation revocation and sentence suspension revocation cases in which the defendant was under the direct supervision of the probation and parole district office, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets shall be prepared by the attorney for the Commonwealth.

D. Except as provided in subsection E, discretionary sentencing guidelines or sentencing revocation report worksheets prepared pursuant to this section shall be subject to the same distribution as presentence investigation reports prepared pursuant to subsection A of § 19.2-299.

E. Following the entry of a final order in a probation revocation or sentence suspension revocation case or final order of conviction and sentence in a felony case, the clerk of the circuit court in which the case was tried shall cause a copy of such order or orders, the original of the discretionary sentencing guidelines or sentencing revocation report worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection B to be forwarded to the Virginia Criminal Sentencing Commission within five days. Similarly, the statement required by §§ 19.2-295 and 19.2-303 and regarding departure from or modification of a sentence fixed by a jury shall be forwarded to the Virginia Criminal Sentencing Commission.

F. The failure to follow any or all of the provisions of this section or the failure to follow any or all of the provisions of this section in the prescribed manner shall not be reviewable on appeal or the basis of any other post-conviction relief.

G. The provisions of this section shall apply only to felony cases in which the offense is committed on or after January 1, 1995, and for which there are discretionary sentencing guidelines and to all revocation of suspension cases filed on and after July 1, 2010. For purposes of the discretionary sentencing guidelines only, a person sentenced to a boot camp incarceration program pursuant to § 19.2-316.1, a detention center incarceration program pursuant to § 19.2-316.2 or a diversion center incarceration program pursuant to § 19.2-316.3 shall be deemed to be sentenced to a term of incarceration.

§ 19.2-306. Revocation of suspension of sentence and probation.

A. Subject to the provisions of § 19.2-298.01, in any case in which the court has suspended the execution or imposition of sentence, the court may revoke the suspension of sentence for any cause the court deems sufficient that occurred at any time within the probation period, or within the period of

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SB617

1/15/10 23:56

59 suspension fixed by the court. If neither a probation period nor a period of suspension was fixed by the  
60 court, then the court may revoke the suspension for any cause the court deems sufficient that occurred  
61 within the maximum period for which the defendant might originally have been sentenced to be  
62 imprisoned.

63 B. The court may not conduct a hearing to revoke the suspension of sentence unless the court, within  
64 one year after the expiration of the period of probation or the period of suspension, issues process to  
65 notify the accused or to compel his appearance before the court. If neither a probation period nor a  
66 period of suspension was fixed by the court, then the court shall issue process within one year after the  
67 expiration of the maximum period for which the defendant might originally have been sentenced to be  
68 incarcerated. Such notice and service of process may be waived by the defendant, in which case the  
69 court may proceed to determine whether the defendant has violated the conditions of suspension.

70 C. If the court, after hearing, finds good cause to believe that the defendant has violated the terms of  
71 suspension, then: (i) if the court originally suspended the imposition of sentence, the court shall revoke  
72 the suspension, and the court may pronounce whatever sentence might have been originally imposed or  
73 (ii) if the court originally suspended the execution of the sentence, the court shall revoke the suspension  
74 and the original sentence shall be in full force and effect. The court may again suspend all or any part  
75 of this sentence and may place the defendant upon terms and conditions or probation.

76 D. If any court has, after hearing, found no cause to impose a sentence that might have been  
77 originally imposed, or to revoke a suspended sentence or probation, then any further hearing to impose a  
78 sentence or revoke a suspended sentence or probation, based solely on the alleged violation for which  
79 the hearing was held, shall be barred.

80 E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the  
81 manner provided by law to the circuit court having criminal jurisdiction from a judgment or order  
82 revoking any suspended sentence.

83







**INTRODUCED BUDGET**  
**House Bill 30/Senate Bill 30**

ITEM 380.	Item Details(\$)		Appropriations(\$)	
	First Year FY2011	Second Year FY2012	First Year FY2011	Second Year FY2012
<b>Department of Corrections (799)</b>				
380.	Administrative and Support Services (39900).....		\$82,246,458	\$81,205,064
	General Management and Direction (39901).....	\$19,149,552	\$19,149,552	
	Information Technology Services (39902).....	\$22,918,181	\$21,930,888	
	Accounting and Budgeting Services (39903).....	\$2,831,709	\$2,831,709	
	Architectural and Engineering Services (39904).....	\$7,087,788	\$7,033,687	
	Human Resources Services (39914).....	\$3,196,482	\$3,196,482	
	Planning and Evaluation Services (39916).....	\$550,598	\$550,598	
	Procurement and Distribution Services (39918).....	\$11,367,863	\$11,367,863	
	Training Academy (39929).....	\$6,553,531	\$6,553,531	
	Offender Classification and Time Computation Services (39930) .....	\$8,590,754	\$8,590,754	
	Fund Sources: General.....	\$78,296,458	\$77,255,064	
	Special.....	\$3,950,000	\$3,950,000	

Authority: §§ 53.1-1 and 53.1-10, Code of Virginia.

A. 1. Any plan to modernize and integrate the automated systems of the Department of Corrections shall be based on developing the integrated system in phases, or modules. Furthermore, any such integrated system shall be designed to provide the department the data needed to evaluate its programs, including that data needed to measure recidivism.

2. The appropriation in this Item includes \$484,250 the first year and \$585,400 the second year from the Contract Prisoners Special Revenue Fund to defray a portion of the costs of developing the offender management system. In addition to any general fund appropriations, the Department of Corrections may, subject to the authorization of the Director, Department of Planning and Budget, utilize additional revenue deposited in the Contract Prisoners Special Revenue Fund to support the development of the offender management system.

B. Included in this appropriation is \$550,000 the first year and \$550,000 the second year from nongeneral funds to be used for installation and operating expenses of the telemedicine program operated by the Department of Corrections. The source of the funds is revenue from inmate fees collected for medical services.

C. Included in this appropriation is \$2,800,000 the first year and \$2,800,000 the second year from nongeneral funds to be used by the Department of Corrections for the operations of its Corrections Construction Unit. The Comptroller shall continue the Corrections Construction Unit Special Operating Fund on the Commonwealth Accounting and Reporting System to reflect the activities of contracts between the Corrections Construction Unit and (i) institutions within the Department of Corrections for work not related to a capital project and (ii) agencies without the Department of Corrections for work performed for those agencies.

D. 1. Notwithstanding the provisions of § 53.1-20 A. and B., Code of Virginia, the Director, Department of Corrections, shall receive offenders into the state correctional system from local and regional jails at such time as he determines that sufficient, secure and appropriate housing is available, placing a priority on receiving inmates diagnosed and being treated for HIV, mental illnesses requiring medication, or Hepatitis C. The director shall maximize, consistent with inmate and staff safety, the use of bed space in the state correctional system. The director shall report monthly to the Secretary of Public Safety and the Department of Planning and Budget on the number of inmates housed in the state correctional system, the number of inmate beds available, and the number of offenders housed in local and regional jails that meet the criteria set out in § 53.1-20 A. and B.

2. The Department of Corrections shall strive to have no more than 500 general population and reception beds of its base bed space capacity vacant at any one time. The Director, Department of Planning and Budget, is authorized to increase the department's appropriation of revenue received from housing out of state inmates by \$12 per prisoner-day that the vacancy level falls below 500. Any such additional appropriation shall be used only for non-recurring expenses.

E. The Department of Corrections is exempted from the approval requirements of Chapter 11 of the Construction and Professional Services Manual as issued by the Division of Engineering

ITEM 380.	Item Details(\$)		Appropriations(\$)	
	First Year	Second Year	First Year	Second Year
	FY2011	FY2012	FY2011	FY2012

and Buildings. The Department of Corrections may authorize and initiate design-build contracts as deemed appropriate by the Director, Department of Corrections, in accordance with §§ 2.2-4301 and 2.2-4306, Code of Virginia.

F. Notwithstanding any requirement to the contrary, any building, fixture, or structure to be placed, erected or constructed on, or removed or demolished from the property of the Commonwealth of Virginia under the control of the Department of Corrections shall not be subject to review and approval by the Art and Architectural Review Board as contemplated by § 2.2-2402, Code of Virginia. However, if the Department of Corrections seeks to construct a facility that is not a secure correctional facility or a structure located on the property of a secure correctional facility, then the Department of Corrections shall submit that structure to the Art and Architectural Review Board for review and approval by that board. Such other structures could include probation and parole district offices or regional offices.

G. The Commonwealth of Virginia shall convey 45 acres (more or less) of property, being a portion of Culpeper County Tax Map No. 75, parcel 32, lying in the Cedar Mountain Magisterial District of Culpeper County, Virginia, in consideration of the County's construction of water capacity and service line(s) adequate to serve the needs of the Department of Corrections' Coffeewood Facility and the Department of Juvenile Justice's Culpeper Juvenile Correctional Facility (hereinafter "the facilities"). The cost of the water improvements necessary to serve the facilities, including an eight-inch water service line, and including engineering and land/easement acquisition costs, shall be paid by the Commonwealth, less and except (i) the value of the property for the jail conveyed by the Commonwealth to the County (\$150,382.00, based on valuation by the Culpeper County Assessor), and (ii) the cost of increasing the size of the water service line from eight inches to twelve inches, in order to accommodate planned county needs.

H. 1. The Director, Department of Corrections, shall have authority to discharge, on any day within a period of 90 days prior to the date upon which an inmate's prison term would normally expire, any inmate for whom the department is responsible and who meets the following criteria;

i. the inmate is not currently serving a sentence for, or has not been previously convicted of, a violent felony as defined by § 17.1-805, Code of Virginia;

ii. the inmate's net imposed sentence to be satisfied was originally for more than 15.5 months (equivalent to 465 days); and

iii. the inmate, upon discharge, would have been incarcerated for one year or more in jail or prison for the net imposed sentence to be satisfied.

2. For any inmate with a net imposed sentence to be satisfied of 15.5 months (equivalent to 465 days) or less, the provisions of § 53.1-28, Code of Virginia, shall be applicable.

I. Notwithstanding the provisions of § 58.1-3403, Code of Virginia, the Department of Corrections shall be exempt from the payment of service charges levied in lieu of taxes by any county, city, or town.

ITEM 370.		Item Details(\$)		Appropriations(\$)	
		First Year FY2011	Second Year FY2012	First Year FY2011	Second Year FY2012
<b>Secretary of Public Safety (187)</b>					
370.	Administrative and Support Services (79900).....			\$548,664	\$548,664
	General Management and Direction (79901).....	\$548,664	\$548,664		
	Fund Sources: General.....	\$548,664	\$548,664		

Authority: Title 2.2, Chapter 2, Article 8, and § 2.2-201, Code of Virginia.

A. The Secretary of Public Safety shall present revised state and local juvenile and state and local responsibility adult offender population forecasts to the Governor, the Chairmen of the House Appropriations and Senate Finance Committees, and the Chairmen of the House and Senate Courts of Justice Committees by October 15, 2010, for each fiscal year through FY 2016 and by October 15, 2011, for each fiscal year through FY2017. The secretary shall ensure that the revised forecast for state-responsible adult offenders shall include an estimate of the number of probation violators included each year within the overall population forecast who may be appropriate for alternative sanctions.

B. The secretary shall provide a status report on actions taken to improve offender transitional and reentry services, as provided in § 2.2-221.1, Code of Virginia, including improvements to the preparation and provision for employment, treatment, and housing opportunities for those being released from incarceration. The report shall be provided to the Governor and the Chairmen of the House Appropriations and Senate Finance Committees no later than November 15 of each year.

C. The secretary shall coordinate the development of a statewide system for the use of GPS and other electronic methods of monitoring offenders as an alternative to incarceration. To assist in the development of this system, the Department of Corrections shall negotiate statewide contracts for GPS and other services that can be used by sheriffs, as well as state agencies, and the Department of Criminal Justice Services shall develop the guidelines and criteria for the use of these systems.

D. There is hereby continued the Secretary of Public Safety's Task Force on Alternatives for Nonviolent Offenders. The task force shall monitor the progress of its prior recommendations that were adopted and are being implemented. It shall also continue to investigate means of reducing the number of nonviolent offenders incarcerated in prisons and jails without endangering public safety and may expand its scope to include reentry issues. The Secretary may expand the membership of the task force as deemed appropriate. The Departments of Planning and Budget, Corrections, and Criminal Justice Services; the Compensation Board; and the Virginia Criminal Sentencing Commission shall provide such assistance as may be necessary.

E. The Secretary of Public Safety, with support from the Virginia Criminal Sentencing Commission, the Parole Board, the Department of Corrections, and the Department of Planning and Budget, shall study the feasibility and desirability of parole examiners utilizing a risk assessment instrument as one factor in making recommendations to the Parole Board for the granting of parole.

ITEM 39.	Item Details(\$)		Appropriations(\$)	
	First Year FY2011	Second Year FY2012	First Year FY2011	Second Year FY2012

**Supreme Court (111)**

39.	Administrative and Support Services (39900).....			\$27,833,906	\$27,833,906
	General Management and Direction (39901).....	\$27,833,906	\$27,833,906		
	Fund Sources: General.....	\$17,388,300	\$17,388,300		
	Special.....	\$174,375	\$174,375		
	Trust and Agency.....	\$104,280	\$104,280		
	Dedicated Special Revenue.....	\$9,000,000	\$9,000,000		
	Federal Trust.....	\$1,166,951	\$1,166,951		

Authority: §§ 16.1-69.30, 16.1-69.33, 17.1-314 through 17.1-320 and 17.1-502, Code of Virginia.

A. The Executive Secretary of the Supreme Court shall submit a monthly summary to the Chairmen of the House Appropriations and Senate Finance Committees and to the Director, Department of Planning and Budget, which will report the number of individuals for whom legal or medical services were provided and the nature and cost of such services as are authorized for payment from the criminal fund or the involuntary mental commitment fund.

B. Notwithstanding the provisions of § 19.2-326, Code of Virginia, the amount of attorney's fees allowed counsel for indigent defendants in appeals to the Supreme Court shall be in the discretion of the Supreme Court.

C. The Chief Justice is authorized to reallocate legal support staff between the Supreme Court and the Court of Appeals of Virginia, in order to meet changing workload demands.

D. Prior to January 1 of each year, the Judicial Council and the Committee on District Courts are requested to submit a fiscal impact assessment of their recommendations for the creation of any new judgeships, including the cost of judicial retirement, to the Chairmen of the House and Senate Committees on Courts of Justice, and the House Appropriations and Senate Finance Committees.

E. Included in this Item is \$3,750,000 the first year and \$3,750,000 the second year from the general fund, which may support computer system improvements for the several circuit and district courts.

F. Given the continued concern about providing adequate compensation levels for court-appointed attorneys providing criminal indigent defense in the Commonwealth, the Executive Secretary of the Supreme Court, in conjunction with the Governor, Attorney General, Indigent Defense Commission, representatives of the Indigent Defense Stakeholders Group and Chairmen of the House and Senate Courts of Justice Committees, shall continue to study and evaluate all available options to enhance Virginia's Indigent Defense System.

G. In addition to any filing fee or other fee permitted by law, an electronic access fee may be charged for each case filed electronically pursuant to Rule 1:17 of the Rules of the Supreme Court of Virginia. The amount of this fee shall be set by the Supreme Court of Virginia. Moneys collected pursuant to this fee shall be deposited into the State Treasury to the credit of the Courts Technology Fund established pursuant to § 17.1-132, to be used to support the costs of statewide electronic filing systems.

H. Included in the appropriation for this item is \$104,280 the first year and \$104,280 the second year from the Circuit Court Clerks Technology Fund established pursuant to § 17.1-279.A, Code of Virginia.

I. No state funds used to support the operation of drug court programs shall be provided to programs that serve first-time substance abuse offenders only or do not include probation violators. This restriction shall not apply to juvenile drug court programs.

J. There is hereby established, in two circuit courts, pilot programs for dealing with probation violations, to be based on the principles used for the HOPE program developed in Hawaii. The Chief Justice shall designate the circuits in which the programs will be implemented. To the extent feasible, such circuits should be served by probation and parole district offices that have

ITEM 39.	Item Details(\$)		Appropriations(\$)	
	First Year FY2011	Second Year FY2012	First Year FY2011	Second Year FY2012

adopted, or are in the process of adopting, evidence based practices. The Department of Corrections and the respective sheriffs and Commonwealth's attorneys shall cooperate with the Supreme Court in developing the procedures to be used in these pilot programs. The Executive Secretary of the Supreme Court shall submit an annual report on June 30 of each year on the progress of the pilot programs to the Chairmen of the Senate and House Committees on Courts of Justice, the Chairmen of the Senate Finance and House Appropriations Committees, the Secretary of Public Safety, and the Director, Department of Planning and Budget.



# **SENATE BUDGET AMENDMENTS**

Item [49](#) #1s

**Judicial Department**

Virginia Criminal Sentencing Commission

Language

**Language:**

Page 25, at the beginning of line 28, insert "A."

Page 25, following line 32, insert:

"B. On or before August 1, 2010, the Virginia Criminal Sentencing Commission shall publish in the Virginia Register proposed evidence-based risk assessment guidelines designed to inform all discretionary parole and geriatric release decisions made by the Virginia Parole Board. Such proposal shall be accompanied by an evaluation of those evidence-based risk assessment tools then in use or under consideration by other paroling authorities, including an analysis of both static and dynamic risk factors. On or before December 1, 2010, and following at least thirty (30) days notice and opportunity to comment on such proposal by interested members of the public, the Commission shall adopt and publish in the Virginia Register final risk assessment guidelines. Such guidelines shall be applied by the Virginia Parole Board in the course of all discretionary and geriatric release decisions."

**Explanation:**

(This amendment directs the Virginia Criminal Sentencing Commission to develop risk assessment guidelines to inform discretionary parole and geriatric release decisions made by the Virginia Parole Board. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [49](#) #2s

**Judicial Department**

Virginia Criminal Sentencing Commission

Language

**Language:**

Page 25, at the beginning of line 28, insert "A."

Page 25, following line 32, insert:

"B. In applying the risk assessment instrument to offenders convicted of any felony that is not specified in (i) subdivision 1, 2, or 3 of subsection A of Section 17.1-805 or (ii) subsection C of Section 17.1-805 under the discretionary sentencing guidelines, and with due regard for public safety requirements, the Virginia Criminal Sentencing Commission shall recommend alternative sanctions, including giving consideration to recommending home electronic incarceration for low-risk nonviolent offenders with a sentencing guideline midpoint of 12 months or more who are recommended for incarceration in a facility."

**Explanation:**

(This amendment directs the Virginia Criminal Sentencing Commission to encourage the use of home electronic incarceration for low-risk nonviolent offenders who might otherwise be recommended for incarceration under the felony sentencing guidelines. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)



**Judicial Department**  
Circuit Courts

Language

**Language:**

Page 21, following line 5, insert:

"F.1. In any case in which the circuit court has suspended imposition of sentence or suspended the sentence in whole or in part, pursuant to Section 19.2-303, Code of Virginia, and placed the defendant under active supervision of the Department of Corrections' probation and parole office, the court shall assign a specific period of active supervision and shall not place the probationer under supervision for an indefinite or unspecified period.

2. For offenders placed under active supervision as described in F.1. who have never been convicted of a violent felony as defined in Section 17.1-805(C) and are not required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Section 9.1-901, the period of active supervision assigned by the court shall not exceed three years.

G.1. Notwithstanding the provisions of Section 19.2-304, for an offender placed under active supervision of the Department of Corrections' probation and parole office as a condition of the suspension of sentence, the circuit court may reduce a probationer's supervision period on the recommendation of the probation and parole officer based on credits earned by the probationer while under supervision. The probationer may earn credits toward the reduction of the supervision period in the manner prescribed below.

2. Earned credit equals thirty days for every thirty days that a probationer does all of the following:

a. Exhibits positive progression toward the goals and treatment requirements of the probationer's supervision plan;

b. Is current on payments for court-ordered restitution and other court-ordered financial obligations; and,

c. Is current in completing community obligations, including but not limited to community service.

3. Any earned credit awarded to a probationer shall be revoked if he or she is found by the court to be in violation of a condition of probation.

4. The provisions specified in G.1. through G.3. above shall not apply to a probationer who is currently:

a. On probation for a violent felony as defined in Section 17.1-805(C);

b. On probation exclusively for a misdemeanor offense; or,

c. Required to register with the Sex Offender and Crimes Against Minors Registry pursuant to Section 9.1-901.

5. The provisions specified in G.1. through G.4. have no effect on the ability of the court to terminate the period of probation at a time earlier than originally imposed.

6. The provisions specified in F.1. and F.2, and G.1. through G.4., shall apply to offenders sentenced on or after July 1, 2010.

**Explanation:**

(This amendment provides for certain nonviolent offenders on probation to earn credits which will reduce the length of their term of probation, and limits the maximum time on probation, in order to permit the courts and the Department of Corrections to manage a growing probation caseload in a more efficient and effective manner and to focus the efforts of probation officers on providing the most essential supervisory activities in a time of extremely limited resources. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

**Judicial Department**  
Circuit Courts

Language

**Language:**

Page 21, following line 5, insert:

"F.1. For any hearing conducted pursuant to Section 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has allegedly violated.

2. For any hearing conducted pursuant to Section 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.

3. Following any hearing conducted pursuant to Section 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.

4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.

5. The provisions specified in F.1. through F.4. shall apply only to hearings conducted pursuant to Section 19.2-306 that are held on or after July 1, 2010."

**Explanation:**

(This amendment requires sentencing revocation report worksheets in all probation revocation and sentence suspension revocation cases in which the defendant is under the direct supervision of the district probation office. The intended impact of this change is to reduce the number of technical probation violators sentenced to incarceration in a time of extremely limited resources. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [377](#) #1s

**Public Safety**

Department Of Corrections

Language

**Language:**

Page 255, following line 31, insert:

"E. Notwithstanding the provisions of Section 53.1-20 of the Code of Virginia, persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department of Corrections or sentenced to confinement in jail for two years or more shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic submission to the Director by the clerk."

**Explanation:**

(This amendment adjusts the definition of state-responsible offenders from felons with sentences of one year or more to felons with sentences of two years or more. A companion amendment to the Compensation Board in Item 418 maintains the same jail per diem of \$14 for felons housed in jail with sentences of one year up to two years. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [380](#) #3s

**Public Safety**

Department Of Corrections

Language

**Language:**

Page 259, following line 23, insert:

"J. By August 1, 2010, the Director of the Department of Corrections shall identify those prisoners eligible for parole who may be suitable parole risks and whose interests and those of society will be served by the grant of discretionary parole, shall recommend such prisoners to the Parole Board, and shall notify each such prisoner who is the subject of such a recommendation. In making such recommendations, the Director shall take into account the prisoner's criminal history record, mental and physical condition, employability, institutional adjustment, and such other factors as may be appropriate, including the risk of violence to others. No prisoner shall be recommended for release prior to the time specified in Section 53.1-154.1 of the Code of Virginia."

**Explanation:**

(This amendment requests the Director of the Department of Corrections to recommend to the Parole Board those prisoners eligible for parole who may be suitable candidates for parole. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

**Public Safety**

Department Of Corrections

Language

**Language:**

Page 259, after line 23, insert:

"J.1 The Department of Corrections, with support from the Virginia Criminal Sentencing Commission, the Parole Board, and the Departments of Medical Assistance Services and Planning and Budget, shall consider the feasibility and desirability of establishing a geriatric parole release facility for older correctional inmates with special medical needs, who could be released on parole on the condition of living in this special facility. Such a facility should include sufficient security provisions to restrict residents who might attempt to leave without staff permission, but should otherwise not be deemed a correctional facility. The Department shall consider whether an existing state facility which has been closed might be a suitable location for such a facility, and whether the services provided in such a facility might be eligible for Medicaid reimbursement. The Department shall issue a request for proposals for a privately owned and operated geriatric parole release facility. A report on the results of this review, including the response to the request for proposals, the expected numbers of geriatric offenders who might be paroled to such a facility over the next six years, and a cost analysis of contracting for such a facility compared to maintaining the same offenders in a state correctional facility, shall be provided to the Secretary of Public Safety and the Chairmen of the Senate Finance and House Appropriations Committees by November 15, 2010."

**Explanation:**

(This amendment authorizes a review of the feasibility of creating a geriatric parole release facility for older offenders. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

**Public Safety**  
Virginia Parole Board

Language

**Language:**

Page 276, at the beginning of line 23, insert "A."

Page 276, following line 25, insert:

"B.1. Absent compelling reasons to the contrary, the Virginia Parole Board shall grant a petition for geriatric release filed in accordance with Section 53.1-40.01 of the Code of Virginia, and shall grant discretionary parole to any inmate eligible therefore, with respect to any inmate who is terminally ill or permanently and totally disabled.

2. Compelling reasons may include reliance on any evidence-based risk assessment tool developed by the Virginia Criminal Sentencing Commission for consideration of candidates for parole or geriatric release that is consistent with best practices.

3. Any decision to deny geriatric release or discretionary parole in the foregoing cases shall be accompanied by fact-specific individualized reasons for such denial, which weighs any material post-sentencing factors against the nature and circumstances of the offense. Nothing in this provision is intended to deprive any other inmate of the right established in Title 53.1 to fair and meaningful consideration for parole and geriatric release.

4. For purposes of this provision, "permanently and totally disabled" means unable to engage in any substantial gainful activity by reason of any medically determinable physical impairment or deformity that can be expected to result in death or can be expected to last for the duration of such person's life, and "terminally ill" means having an illness or sickness where the medical prognosis is the person's death within six months or less. The burden of demonstrating that an inmate is permanently and totally disabled or terminally ill shall be on the inmate and may not be satisfied without competent medical evidence."

**Explanation:**

(This amendment establishes a standard by which the Parole Board is required to grant petitions for geriatric release and petitions for discretionary parole in cases involving the terminal illness or permanent and total disability of a geriatric inmate, regardless of whether or not the inmate has reached the current required age standards. This amendment would continue to permit the Board to deny parole where there are good reasons for doing so. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)





**CONFERENCE REPORT**  
**House Bill 30/Senate Bill 30**

**Judicial Department**  
Circuit Courts

Language

**Language:**

Page 21, after line 5, insert:

"F.1. For any hearing conducted pursuant to § 19.2-306, Code of Virginia, the circuit court shall have presented to it a sentencing revocation report prepared on a form designated by the Virginia Criminal Sentencing Commission indicating the condition or conditions of the suspended sentence, good behavior, or probation supervision that the defendant has allegedly violated.

2. For any hearing conducted pursuant to § 19.2-306 in which the defendant is cited for violation of a condition or conditions other than a new criminal offense conviction, the court shall also have presented to it the applicable probation violation guideline worksheets established pursuant to Chapter 1042 of the Acts of Assembly 2003. The court shall review and consider the suitability of the discretionary probation violation guidelines. Before imposing sentence, the court shall state for the record that such review and consideration have been accomplished and shall make the completed worksheets a part of the record of the case and open for inspection. In hearings in which the court imposes a sentence that is either greater or less than that indicated by the discretionary probation violation guidelines, the court shall file with the record of the case a written explanation of such departure.

3. Following any hearing conducted pursuant to § 19.2-306 and the entry of a final order, the clerk of the circuit court in which the hearing was held shall cause a copy of such order or orders, the original sentencing revocation report, any applicable probation violation guideline worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection F.2., to be forwarded to the Virginia Criminal Sentencing Commission within 30 days.

4. The failure to follow any or all of the provisions specified in F.1. through F.3 or the failure to follow any or all of these provisions in the prescribed manner shall not be reviewable on appeal or the basis of any other post-hearing relief.

5. The provisions specified in F.1. through F.4. shall apply only to hearings conducted pursuant to § 19.2-306 that are held on or after July 1, 2010."

**Explanation:**

(This amendment requires sentencing revocation report worksheets in all probation revocation and sentence suspension revocation cases in which the defendant is under the direct supervision of the district probation office. The intended impact of this change is to reduce the number of technical probation violators sentenced to incarceration in a time of extremely limited resources. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)



Item 42 #1c

<b>Judicial Department</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	
General District Courts	(\$3,500,000)	(\$3,500,000)	GF

**Language:**

Page 21, line 12, strike "\$94,874,301" and insert "\$91,374,301".

Page 21, line 12, strike "\$94,874,301" and insert "\$91,374,301".

Page 21, line 36, after "D." insert "1."

Page 21, after line 37, insert:

"2. The Committee on District Courts, in consultation with the Virginia Association of Commonwealth's Attorneys and the Virginia Indigent Defense Commission, shall develop policies and procedures to reduce the number of misdemeanor charges for which the Commonwealth will seek incarceration, thereby reducing expenditures through the Criminal Fund for court-appointed counsel or for public defenders. The Executive Secretary of the Supreme Court shall provide a report by October 30, 2010, to the Governor and to the Chairmen of the Senate and House Courts of Justice Committees, and the Chairmen of the Senate Finance and House Appropriations Committees on the implementation of these policies and procedures."

**Explanation:**

(This amendment reduces the Criminal Fund by \$3,500,000 each year from the general fund, to reflect a reduction in the number of attorneys appointed to represent defendants charged with misdemeanor offenses. The language specifies that the Committee on District Courts, in consultation with the Virginia Association of Commonwealth's Attorneys and the Virginia Indigent Defense Commission, shall develop policies and procedures to reduce the number of misdemeanor charges for which the Commonwealth will seek incarceration, thereby reducing expenditures through the Criminal Fund for court-appointed counsel or for public defenders. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [370](#) #1c

**Public Safety**

Secretary Of Public Safety

Language

**Language:**

Page 251, line 23, after "Department of Corrections" insert:

", with the assistance and consultation of the Department of General Services,".

Page 251, line 24, after "sheriffs" insert:

"and regional jails".

Page 251, line 31, after "public safety" insert:

", including additional steps which may be required to encourage the expanded use of electronic monitoring,".

**Explanation:**

(This amendment clarifies language contained in the budget, as introduced, concerning the Task Force on Alternatives for Nonviolent Offenders, in order to encourage the use of electronic monitoring. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [370](#) #2c

**Public Safety**

Secretary Of Public Safety

Language

**Language:**

Page 251, line 40, after "granting of parole." insert:

"A report on this study shall be provided to the Governor and the Chairmen of the Senate Finance and House Appropriations Committee by November 15, 2010."

**Explanation:**

(This amendment specifies the reporting date for a study of the use of risk assessment as one factor in parole decision making.)

Item [377](#) #4c

**Public Safety**

Department Of Corrections

Language

**Language:**

Page 255, after line 31, insert:

"E. Notwithstanding the provisions of § 53.1-20 of the Code of Virginia, persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department of Corrections or sentenced to confinement in jail for two years or more shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic submission to the Director by the clerk."

**Explanation:**

(This amendment adjusts the definition of state-responsible offenders from felons with sentences of one year or more to felons with sentences of two years or more. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item [380](#) #1c

**Public Safety**

Department Of Corrections

Language

**Language:**

Page 259, after line 23, insert:

"J. By August 1, 2010, the Director of the Department of Corrections shall identify those prisoners eligible for parole who may be suitable parole risks and whose interests and those of society will be served by the grant of discretionary parole, shall recommend such prisoners to the Parole Board, and shall notify each such prisoner who is the subject of such a recommendation. In making such recommendations, the Director shall take into account the prisoner's criminal history record, mental and physical condition, employability, institutional adjustment, and such other factors as may be appropriate, including the risk of violence to others. No prisoner shall be recommended for release prior to the time specified in § 53.1-154.1 of the Code of Virginia."

**Explanation:**

(This amendment requests the Director of the Department of Corrections to recommend to the Parole Board those prisoners eligible for parole who may be suitable candidates for parole. This is one of a series of amendments to enable the criminal justice system to manage its workload effectively during a period of severe budget reductions.)

Item **380** #3c

<b>Public Safety</b>	<b>FY 10-11</b>	<b>FY 11-12</b>	
Department Of Corrections	(\$4,101)	\$0	GF

**Language:**

Page 257, line 44, strike "\$82,246,458" and insert "\$82,242,357".

Page 259, after line 23, insert:

"J. Included in the appropriation for this item is \$50,000 the first year from the general fund for the estimated net increase in the operating costs of adult correctional centers resulting from the enactment of House Bill 1 by the 2010 Session of the General Assembly. This amount shall be paid into the Corrections Special Reserve Fund, established in accordance with § 30-19.1:4, Code of Virginia."

**Explanation:**

(This amendment reflects two separate actions. First, the amendment removes \$54,101 the first year from the general fund, which was included in the budget, as introduced, as the prison bedspace fiscal impact of Senate Bill 604 of the 2010 Session, which was carried over. Second, the amendment provides \$50,000 the first year from the general fund to account the prison bedspace fiscal impact of House Bill 1 of the 2010 Session, which dealt with penalties associated with the electronic transmission of bulk e-mails. The net effect of these two actions is a reduction of \$4,101 the first year from the general fund.)