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HOUSE BILL NO. 383**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on March 5, 2000)

(Patron Prior to Substitute—Delegate McDonnell)

A BILL to amend and reenact §§ 16.1-273, 16.1-278.8, 18.2-10, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-248.5, 18.2-251, 18.2-251.01, 18.2-252, 18.2-254, 18.2-255, 18.2-255.2, 19.2-123 and 19.2-295.2 of the Code of Virginia and to amend the Code of Virginia by adding a sections numbered 16.1-278.8:01, relating to illegal drugs; substance abuse treatment; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-273, 16.1-278.8, 18.2-10, 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-248.5, 18.2-251, 18.2-251.01, 18.2-252, 18.2-254, 18.2-255, 18.2-255.2, 19.2-123 and 19.2-295.2 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 16.1-278.8:01 as follows:

§ 16.1-273. Court may require investigation of social history and preparation of victim impact statement.

A. When a juvenile and domestic relations district court or circuit court has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, except for a traffic violation, a violation of the game and fish law or a violation of any city ordinance regulating surfing or establishing curfew violations, the court before final disposition thereof may require an investigation, which (i) shall include a drug screening and (ii) may include the physical, mental and social conditions, including an assessment of any affiliation with a youth gang as defined in § 16.1-299.2, and personality of the child and the facts and circumstances surrounding the violation of law. However, in the case of a juvenile adjudicated delinquent on the basis of an act committed on or after January 1, 2000, which would be a felony if committed by an adult, or a violation under Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and such offense would be punishable as a Class 1 or Class 2 misdemeanor if committed by an adult, the court shall order the juvenile to undergo a drug screening. If the drug screening indicates that the juvenile has a substance abuse or dependence problem, an assessment shall be completed by a certified substance abuse counselor as defined in § 54.1-3500 employed by the Department of Juvenile Justice or by a locally operated court services unit or by an *individual employed by or under contract to such agencies and who is specifically trained to conduct such assessments under the supervision of such counselor* ~~agency employee under the direct supervision of such a counselor.~~

B. The court also shall, on motion of the attorney for the Commonwealth with the consent of the victim, or may in its discretion, require the preparation of a victim impact statement in accordance with the provisions of § 19.2-299.1 if the court determines that the victim may have suffered significant physical, psychological or economic injury as a result of the violation of law.

§ 16.1-278.8. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § 66-13 provided bed space is available for confinement and the juvenile (i) is otherwise eligible for commitment to the Department, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section

60 which could have been imposed at the time the juvenile was placed in the custody of the Department;

61 5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer
62 disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile
63 on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the
64 terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him.
65 Discharge and dismissal under these provisions shall be without adjudication of guilt;

66 6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such
67 programs, cooperate in such treatment or be subject to such conditions and limitations as the court may
68 order and as are designed for the rehabilitation of the juvenile where the court determines this
69 participation to be in the best interest of the juvenile and other parties concerned and where the court
70 determines it reasonable to expect the parent to be able to comply with such order;

71 7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

72 7a. *Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or*
73 *drugs in a program licensed by the Department of Mental Health, Mental Retardation and Substance*
74 *Abuse Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has*
75 *received a substance abuse screening and assessment pursuant to § 16.1-273 and that such assessment*
76 *reasonably indicates that the commission of the offense was motivated by, or closely related to, the*
77 *habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this*
78 *condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a violent*
79 *juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to*
80 *comply with the conditions of participation in the program, he shall be brought before the court for a*
81 *hearing at which the court may impose any other disposition authorized by this section. The court shall*
82 *review such placements at thirty-day intervals.*

83 8. Impose a fine not to exceed \$500 upon such juvenile;

84 9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile
85 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is
86 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such
87 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of
88 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who
89 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to
90 and from school. The restricted permit shall be issued in accordance with the provisions of such
91 subsection. However, only an abstract of the court order which identifies the juvenile and the conditions
92 under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

93 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the
94 physical custody of the court during any period of curfew restriction. The court shall send an abstract of
95 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall
96 preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this
97 chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement
98 officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be
99 noted all curfew restrictions, shall be provided to the juvenile and shall contain such information
100 regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor
101 vehicle under the court order in accordance with its terms.

102 Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this
103 section shall be guilty of a violation of § 46.2-301.

104 The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a
105 driver's license until such time as is stipulated in the court order or until notification by the court of
106 withdrawal of the order imposing the curfew;

107 10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual
108 damages or loss caused by the offense for which the juvenile was found to be delinquent;

109 11. Require the juvenile to participate in a public service project under such conditions as the court
110 prescribes;

111 12. In case of traffic violations, impose only those penalties which are authorized to be imposed on
112 adults for such violations. However, for those violations punishable by confinement if committed by an
113 adult, confinement shall be imposed only as authorized by this title;

114 13. Transfer legal custody to any of the following:

115 a. A relative or other individual who, after study, is found by the court to be qualified to receive and
116 care for the juvenile;

117 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized
118 by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a
119 delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the
120 approval of the Director; or

121 c. The local board of social services of the county or city in which the court has jurisdiction or, at

122 the discretion of the court, to the local board of the county or city in which the juvenile has residence if
 123 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for
 124 care and custody, provided that it has been given reasonable notice of the pendency of the case and an
 125 opportunity to be heard. However, in an emergency in the county or city in which the court has
 126 jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed
 127 fourteen days without prior notice or an opportunity to be heard if the judge entering the placement
 128 order describes the emergency and the need for such temporary placement in the order. Nothing in this
 129 subdivision shall prohibit the commitment of a juvenile to any local board of social services in the
 130 Commonwealth when such local board consents to the commitment. The board to which the juvenile is
 131 committed shall have the final authority to determine the appropriate placement for the juvenile. Any
 132 order authorizing removal from the home and transferring legal custody of a juvenile to a local board of
 133 social services as provided in this subdivision shall be entered only upon a finding by the court that
 134 reasonable efforts have been made to prevent removal and that continued placement in the home would
 135 be contrary to the welfare of the juvenile, and the order shall so state;

136 14. Commit the juvenile to the Department of Juvenile Justice, but only if he is older than ten years
 137 of age and the current offense is (i) an offense which would be a felony if committed by an adult or (ii)
 138 an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has
 139 previously been found to be delinquent based on an offense which would be either a felony or Class 1
 140 misdemeanor if committed by an adult;

141 15. Impose the penalty authorized by § 16.1-284;

142 16. Impose the penalty authorized by § 16.1-284.1;

143 17. Impose the penalty authorized by § 16.1-285.1;

144 18. Impose the penalty authorized by § 16.1-278.9; or

145 19. Require the juvenile to participate in a gang-activity prevention program including, but not
 146 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to
 147 § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations:
 148 §§ 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.1, 18.2-57.2, 18.2-121,
 149 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147, or any violation of a local ordinance
 150 adopted pursuant to § 18.2-138.1.

151 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the
 152 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the
 153 offense, or for actual medical expenses incurred by the victim as a result of the offense: §§ 18.2-51,
 154 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.1, 18.2-57.2, 18.2-121, 18.2-127,
 155 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147; or for any violation of a local ordinance adopted
 156 pursuant to § 18.2-138.1. The court shall further require the juvenile to participate in a community
 157 service project under such conditions as the court prescribes.

158 § 16.1-278.8:01. *Juveniles found delinquent of first drug offense; screening; assessment; drug tests;*
 159 *costs and fees; education or treatment programs.*

160 *Whenever any juvenile who has not previously been found delinquent of any offense under Article 1*
 161 *(§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or under any statute of the United States or of any state*
 162 *relating to narcotic drugs, marijuana, or stimulant, depressant or hallucinogenic drugs, or has not*
 163 *previously had a proceeding against him for a violation of such an offense dismissed as provided in*
 164 *§ 18.2-251, is found delinquent of any offense concerning the use, in any manner, of drugs, controlled*
 165 *substances, narcotics, marijuana, noxious chemical substances and like substances, the juvenile court or*
 166 *the circuit court shall require such juvenile to undergo a substance abuse screening pursuant to*
 167 *§ 16.1-273 and to submit to such periodic substance abuse testing, to include alcohol testing, as may be*
 168 *directed by the court. Such testing shall be conducted by a court services unit of the Department of*
 169 *Juvenile Justice, or by a locally operated court services unit or by personnel of any program or agency*
 170 *approved by the Department. The cost of such testing ordered by the court shall be paid by the*
 171 *Commonwealth from funds appropriated to the Department for this purpose. The court shall also order*
 172 *the juvenile to undergo such treatment or education program for substance abuse, if available, as the*
 173 *court deems appropriate based upon consideration of the substance abuse assessment. The treatment or*
 174 *education shall be provided by a program licensed by the Department of Mental Health, Mental*
 175 *Retardation and Substance Abuse Services or by a similar program available through a facility or*
 176 *program operated by or under contract to the Department of Juvenile Justice or a locally operated*
 177 *court services unit.*

178 § 18.2-10. Punishment for conviction of felony. The authorized punishments for conviction of a
 179 felony are:

180 (a) For Class 1 felonies, death, or imprisonment for life and, subject to subdivision (g), a fine of nor
 181 more than \$100,000.

182 (b) For Class 2 felonies, imprisonment for life or for any term not less than twenty years and,

183 subject to subdivision (g), a fine of not more than \$100,000.

184 (c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than twenty
185 years and, subject to subdivision (g), a fine of not more than \$100,000.

186 (d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than ten years
187 and, subject to subdivision (g), a fine of not more than \$100,000.

188 (e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than ten years,
189 or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not
190 more than twelve months and a fine of not more than \$2,500, either or both.

191 (f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years,
192 or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not
193 more than twelve months and a fine of not more than \$2,500, either or both.

194 (g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a
195 sentence of death is imposed, the court shall impose either a sentence of imprisonment together with
196 fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose
197 only a fine.

198 For any felony offense committed on or after January 1, 1995, the court may, *and for any felony*
199 *offense committed on or after July 1, 2000, the court shall, if the substance abuse screening and*
200 *assessment conducted pursuant to § 18.2-251.01 indicates the presence of a substance abuse problem,*
201 impose an additional term of not less than six months nor more than three years, which shall be
202 suspended conditioned upon successful completion of a period of post-release supervision pursuant to
203 § 19.2-295.2 and compliance with such other terms as the sentencing court may require. However, such
204 additional term may only be imposed when the sentence includes an active term of incarceration in a
205 correctional facility.

206 § 18.2-248. Manufacturing, selling, giving, distributing or possessing with intent to manufacture, sell,
207 give or distribute a controlled substance or an imitation controlled substance prohibited; penalties.

208 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), it shall be unlawful for any
209 person to manufacture, sell, give, distribute, or possess with intent to manufacture, sell, give or distribute
210 a controlled substance or an imitation controlled substance.

211 B. In determining whether any person intends to manufacture, sell, give or distribute an imitation
212 controlled substance, the court may consider, in addition to all other relevant evidence, whether any
213 distribution or attempted distribution of such pill, capsule, tablet or substance in any other form
214 whatsoever included an exchange of or a demand for money or other property as consideration, and, if
215 so, whether the amount of such consideration was substantially greater than the reasonable value of such
216 pill, capsule, tablet or substance in any other form whatsoever, considering the actual chemical
217 composition of such pill, capsule, tablet or substance in any other form whatsoever and, where
218 applicable, the price at which over-the-counter substances of like chemical composition sell.

219 C. Any person who violates this section with respect to a controlled substance classified in Schedule
220 I or II shall upon conviction be imprisoned for not less than five nor more than forty years and fined
221 not more than \$500,000. Upon a second or subsequent conviction of such a violation, any such person
222 may, in the discretion of the court or jury imposing the sentence, be sentenced to imprisonment for life
223 or for any period not less than five years and be fined not more than \$500,000.

224 *When a person is convicted of a third or subsequent offense under this subsection and it is alleged*
225 *in the warrant, indictment or information that he has been before convicted of two or more such*
226 *offenses or of substantially similar offenses in any other jurisdiction which offenses would be felonies if*
227 *committed in the Commonwealth and such prior convictions occurred before the date of the offense*
228 *alleged in the warrant, indictment, or information, he shall be sentenced to imprisonment for life or for*
229 *a period of not less than five years, three years of which shall be a mandatory minimum term of*
230 *imprisonment not to be suspended in whole or in part and to be served consecutively with any other*
231 *sentence and shall be fined not more than \$500,000.*

232 D. If such person proves that he gave, distributed or possessed with intent to give or distribute a
233 controlled substance classified in Schedule I or II only as an accommodation to another individual who
234 is not an inmate in a community correctional facility, local correctional facility or state correctional
235 facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit
236 thereby from any consideration received or expected nor to induce the recipient or intended recipient of
237 the controlled substance to use or become addicted to or dependent upon such controlled substance, he
238 shall be guilty of a Class 5 felony.

239 E. If the violation of the provisions of this article consists of the filing by a pharmacist of the
240 prescription of a person authorized under this article to issue the same, which prescription has not been
241 received in writing by the pharmacist prior to the filling thereof, and such written prescription is in fact
242 received by the pharmacist within one week of the time of filling the same, or if such violation consists
243 of a request by such authorized person for the filling by a pharmacist of a prescription which has not
244 been received in writing by the pharmacist and such prescription is, in fact, written at the time of such

245 request and delivered to the pharmacist within one week thereof, either such offense shall constitute a
246 Class 4 misdemeanor.

247 F. Any person who violates this section with respect to a controlled substance classified in Schedule
248 III, IV or V or an imitation controlled substance which imitates a controlled substance classified in
249 Schedule III, IV or V, except for an anabolic steroid classified in Schedule III constituting a violation of
250 § 18.2-248.5, shall be guilty of a Class 1 misdemeanor.

251 G. Any person who violates this section with respect to an imitation controlled substance which
252 imitates a controlled substance classified in Schedule I or II shall be guilty of a Class 6 felony. In any
253 prosecution brought under this subsection, it is not a defense to a violation of this subsection that the
254 defendant believed the imitation controlled substance to actually be a controlled substance.

255 H. "Drug kingpin" means a ~~Any person who was the principal or one of several principal~~
256 ~~administrators, organizers or leaders of a continuing criminal enterprise if (i) the enterprise received at~~
257 ~~least \$500,000 in gross receipts during any twelve-month period of its existence from the manufacture,~~
258 ~~importation, or distribution of heroin or cocaine or ecgonine or the derivatives, salts, isomers, or salts of~~
259 ~~isomers thereof or (ii) the person engaged in the enterprise to manufacture, sell, give, distributes or~~
260 ~~possesses with the intent to manufacture, sell, give or distribute the following:~~

- 261 1. ~~100~~ 1.0 kilograms or more of a mixture or substance containing a detectable amount of heroin;
- 262 2. ~~500~~ 5.0 kilograms or more of a mixture or substance containing a detectable amount of:
 - 263 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 264 derivatives of ecgonine or their salts have been removed;
 - 265 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - 266 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 - 267 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
 - 268 referred to in subdivisions a through c; ~~or~~
- 269 3. ~~1.5~~ 2.5 kilograms or more of a mixture or substance described in subdivision 2 which contains
- 270 cocaine base-;

- 271 4. *100 kilograms or more of a mixture or substance containing a detectable amount of marijuana; or*
- 272
- 273 5. *100 grams or more of methamphetamine, its salts, isomers, or salts of its isomers or 200 grams of*
274 *a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts*
275 *of its isomers*

276 ~~Any person who is found to be a drug kingpin shall upon conviction be guilty of a felony punishable~~
277 ~~by a fine of not more than one million dollars and imprisonment for twenty years to life, twenty years~~
278 ~~of which shall be a mandatory, minimum sentence which shall be served with no suspension in whole or~~
279 ~~in part, nor shall anyone convicted hereunder be placed on probation or parole. Such mandatory,~~
280 ~~minimum sentence shall not be applicable if the court finds that (i) the person does not have a prior~~
281 ~~conviction for an offense listed in subsection C of § 17.1-805, (ii) the person did not use violence or~~
282 ~~credible threats of violence or possess a firearm or other dangerous weapon in connection with the~~
283 ~~offense or induce another participant in the offense to do so, (iii) the offense did not result in death or~~
284 ~~serious bodily injury to any person, (iv) the person was not an organizer, leader, manager, or~~
285 ~~supervisor of others in the offense, and was not engaged in a continuing criminal enterprise as defined~~
286 ~~in subsection I of this section, and (v) not later than the time of the sentencing hearing, the person has~~
287 ~~truthfully provided to the Commonwealth all information and evidence the person has concerning the~~
288 ~~offense or offenses that were part of the same course of conduct or of a common scheme or plan, but~~
289 ~~the fact that the person has no relevant or useful other information to provide or that the~~
290 ~~Commonwealth already is aware of the information shall not preclude a determination by the court that~~
291 ~~the defendant has complied with this requirement.~~

292 H.1. Any person who was the principal or one of several principal administrators, organizers or
293 leaders of a continuing criminal enterprise shall be guilty of a felony if (i) the enterprise received at
294 least \$100,000 but less than \$250,000 in gross receipts during any twelve-month period of its existence
295 from the manufacture, importation, or distribution of heroin or cocaine or ecgonine or
296 methamphetamine or the derivatives, salts, isomers, or salts of isomers thereof or marijuana or (ii) the
297 person engaged in the enterprise to manufacture, sell, give, distribute or possess with the intent to
298 manufacture, sell, give or distribute the following during any twelve-month period of its existence:

- 299 1. At least 1.0 kilograms but less than 5.0 kilograms of a mixture or substance containing a
300 detectable amount of heroin;
- 301 2. At least 5 kilograms but less than 10 kilograms of a mixture or substance containing a detectable
302 amount of:
 - 303 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 - 304 derivatives of ecgonine or their salts have been removed;
 - 305 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

306 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or
 307 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
 308 referred to in subdivisions a through c;

309 3. At least 2.5 kilograms but less than 5.0 kilograms of a mixture or substance described in
 310 subdivision 2 which contains cocaine base;

311 4. At least 100 kilograms but less than 250 kilograms of a mixture or substance containing a
 312 detectable amount of marijuana; or

313 5. At least 100 grams but less than 250 grams of methamphetamine, its salts, isomers, or salts of its
 314 isomers or at least 200 grams but less than 1.0 kilograms of a mixture or substance containing a
 315 detectable amount of methamphetamine, its salts, isomers, or salts of its isomers.

316 A conviction under this section shall be punishable by a fine of not more than one million dollars
 317 and imprisonment for twenty years to life, twenty years of which shall be a mandatory, minimum
 318 sentence which shall be served with no suspension in whole or in part, nor shall anyone convicted
 319 hereunder be placed on probation or parole.

320 H.2. Any person who was the principal or one of several principal administrators, organizers or
 321 leaders of a continuing criminal enterprise if (i) the enterprise received \$250,000 or more in gross
 322 receipts during any twelve-month period of its existence from the manufacture, importation, or
 323 distribution of heroin or cocaine or ecgonine or methamphetamine or the derivatives, salts, isomers, or
 324 salts of isomers thereof or marijuana or (ii) the person engaged in the enterprise to manufacture, sell,
 325 give distribute or possess with the intent to manufacture, sell, give or distribute the following during any
 326 twelve-month period of its existence:

327 1. At least 5 kilograms of a mixture or substance containing a detectable amount of heroin;

328 2. At least 10 kilograms of a mixture or substance containing a detectable amount of:

329 a. Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and
 330 derivatives of ecgonine or their salts have been removed;

331 b. Cocaine, its salts, optical and geometric isomers, and salts of isomers;

332 c. Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

333 d. Any compound, mixture, or preparation which contains any quantity of any of the substances
 334 referred to in subdivisions a through c;

335 3. At least 5 kilograms of a mixture or substance described in subdivision 2 which contains cocaine
 336 base;

337 4. At least 250 kilograms of a mixture or substance containing a detectable amount of marijuana; or

338 5. At least 250 grams of methamphetamine, its salts, isomers, or salts of its isomers or at least 1.0
 339 kilograms of a mixture or substance containing a detectable amount of methamphetamine, its salts,
 340 isomers, or salts of its isomers shall be guilty of a felony punishable by a fine of not more than one
 341 million dollars and imprisonment for life, which shall be served with no suspension in whole or in part,
 342 nor shall anyone convicted hereunder be placed on probation or parole. Such punishment shall be made
 343 to run consecutively with any other sentence. However, the court may impose a mandatory, minimum
 344 sentence of forty years if the court finds that the defendant substantially cooperated with
 345 law-enforcement authorities.

346 I. For purposes of subsection H of this section, a person is engaged in a continuing criminal
 347 enterprise if (i) he violates any provision of this section, the punishment for which is a felony and (ii)
 348 such violation is a part of a continuing series of violations of this section which are undertaken by such
 349 person in concert with five or more other persons with respect to whom such person occupies a position
 350 of organizer, a supervisory position, or any other position of management, and from which such person
 351 obtains substantial income or resources.

352 § 18.2-248.01. Transporting controlled substances into the Commonwealth; penalty.

353 Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.) it is unlawful for any person to
 354 transport into the Commonwealth by any means with intent to sell or distribute one ounce or more of
 355 cocaine, coca leaves or any salt, compound, derivative or preparation thereof as described in Schedule II
 356 of the Drug Control Act or one ounce or more of any other Schedule I or II controlled substance or five
 357 or more pounds of marijuana into the Commonwealth with intent to sell or distribute such substance. A
 358 violation of this section shall constitute a separate and distinct felony. Upon conviction, the person shall
 359 be sentenced to not less than five years nor more than forty years imprisonment, three years of which
 360 shall be a minimum, mandatory term of imprisonment, and a fine not to exceed \$500,000 \$1,000,000. A
 361 second or subsequent conviction hereunder shall be punishable by a minimum, mandatory term of
 362 imprisonment of ten years which shall not be suspended in whole or in part and shall be served
 363 consecutively with any other sentence.

364 § 18.2-248.1. Penalties for sale, gift, distribution or possession with intent to sell, give or distribute
 365 marijuana.

366 Except as authorized in the Drug Control Act, Chapter 34 of Title 54.1, it shall be unlawful for any
 367 person to sell, give, distribute or possess with intent to sell, give or distribute marijuana.

368 (a) Any person who violates this section with respect to:

369 (1) Not more than one-half ounce of marijuana is guilty of a Class 1 misdemeanor;

370 (2) More than one-half ounce but not more than five pounds of marijuana is guilty of a Class 5
371 felony;

372 (3) More than five pounds of marijuana is guilty of a felony punishable by imprisonment of not less
373 than five nor more than thirty years.

374 If such person proves that he gave, distributed or possessed with intent to give or distribute
375 marijuana only as an accommodation to another individual and not with intent to profit thereby from
376 any consideration received or expected nor to induce the recipient or intended recipient of the marijuana
377 to use or become addicted to or dependent upon such marijuana, he shall be guilty of a Class 1
378 misdemeanor.

379 (b) Any person who gives, distributes or possesses marijuana as an accommodation and not with
380 intent to profit thereby, to an inmate of a ~~penal institution as defined in § 53-19.18~~ *state or local*
381 *correctional facility as defined in § 53.1-1*, or in the custody of an employee thereof shall be guilty of a
382 Class 5 felony.

383 (c) Any person who manufactures marijuana, or possesses marijuana with the intent to manufacture
384 such substance, not for his own use is guilty of a felony punishable by imprisonment of not less than
385 five nor more than thirty years and a fine not to exceed \$10,000.

386 (d) *When a person is convicted of a third or subsequent felony offense under this section and it is*
387 *alleged in the warrant, indictment or information that he has been before convicted of two or more*
388 *felony offenses under this section or of substantially similar offenses in any other jurisdiction which*
389 *offenses would be felonies if committed in the Commonwealth and such prior convictions occurred*
390 *before the date of the offense alleged in the warrant, indictment or information, he shall not be eligible*
391 *for probation and shall be sentenced to imprisonment for life or for any period not less than five years,*
392 *three years of which shall be a minimum, mandatory term of imprisonment not to be suspended in whole*
393 *or in part and to be served consecutively with any other sentence and shall be fined not more than*
394 *\$500,000.*

395 § 18.2-248.5. Illegal stimulants and steroids; penalty.

396 A. Except as authorized in the Drug Control Act (§ 54.1-3400 et seq.), Chapter 34 of Title 54.1, it
397 shall be unlawful for any person to knowingly manufacture, sell, give, distribute or possess with intent
398 to manufacture, sell, give or distribute any anabolic steroid.

399 A violation of subsection A shall be punishable by a term of imprisonment of not less than one year
400 nor more than ten years or, in the discretion of the jury or the court trying the case without a jury,
401 confinement in jail for not more than twelve months or a fine of not more than \$20,000, either or both.
402 *Any person violating the provisions of this subsection shall, upon conviction, be incarcerated for a*
403 *minimum, mandatory term of six months which shall not be suspended in whole or in part and shall be*
404 *served consecutively with any other sentence.*

405 B. It shall be unlawful for any person to knowingly sell or otherwise distribute, without prescription,
406 to a minor any pill, capsule or tablet containing any combination of caffeine and ephedrine sulfate.

407 A violation of this subsection B shall be punishable as a Class 1 misdemeanor.

408 § 18.2-251. Persons charged with first offense may be placed on probation; conditions; screening,
409 assessment and education programs; drug tests; costs and fees; violations; discharge.

410 Whenever any person who has not previously been convicted of any offense under this article or
411 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,
412 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
413 such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to
414 possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1,
415 the court, upon such plea if the facts found by the court would justify a finding of guilt, without
416 entering a judgment of guilt and with the consent of the accused, may defer further proceedings and
417 place him on probation upon terms and conditions.

418 As a term or condition, the court shall require the accused to ~~be evaluated~~ *undergo a substance*
419 *assessment pursuant to § 18.2-251.01* and enter a treatment and/or education program, if available, such
420 as, in the opinion of the court, may be best suited to the needs of the accused *based upon consideration*
421 *of the substance abuse assessment.* This program may be located in the judicial district in which the
422 charge is brought or in any other judicial district as the court may provide. The services shall be
423 provided by a program ~~certified or~~ licensed by the Department of Mental Health, Mental Retardation
424 and Substance Abuse Services, by a similar program which is made available through the Department of
425 Corrections *if the court imposes a sentence of one year or more or, if the court imposes a sentence of*
426 *twelve months or less, by a similar program available through a local or regional jail, a community*
427 *corrections program established pursuant to § 53.1-180, or by an ASAP program certified by the*
428 *Commission on VASAP.*

429 The court shall require the person entering such program under the provisions of this section to pay
430 all or part of the costs of the program, including the costs of the screening, ~~evaluation~~ *assessment*,
431 testing, and treatment, based upon the accused's ability to pay unless the person is determined by the
432 court to be indigent.

433 As a condition of probation, the court shall require the accused (i) to successfully complete the
434 treatment ~~and/or~~ education program ~~and~~ , (ii) to remain drug *and alcohol* free during the period of
435 probation and submit to such tests during that period as may be necessary and appropriate to determine
436 if the accused is drug *and alcohol* free, (iii) *to make reasonable efforts to secure and maintain*
437 *employment, and (iv) to comply with a plan of at least 100 hours of community service.* Such testing
438 ~~may shall~~ be conducted by personnel of ~~any program to which the person is referred or by the~~
439 ~~supervising probation agency or personnel of any program or agency approved by the supervising~~
440 ~~probation agency.~~

441 The court shall, unless done at arrest, order the accused to report to the original arresting
442 law-enforcement agency to submit to fingerprinting.

443 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as
444 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person
445 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without
446 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent
447 proceedings.

448 Notwithstanding any other provision of this section, whenever a court places an individual on
449 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction
450 for purposes of §§ 18.2-259.1 and 46.2-390.1, and the driver's license forfeiture provisions of those
451 sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for
452 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

453 § 18.2-251.01. Substance abuse screening and assessment for felony convictions.

454 A. When a person is convicted of a felony, not a capital offense, committed on or after January 1,
455 2000, he shall be required to undergo a substance abuse screening and, if the screening indicates a
456 substance abuse or dependence problem, an assessment by a certified substance abuse counselor as
457 defined in § 54.1-3500 employed by the Department of Corrections or by an agency employee under the
458 ~~direct~~ supervision of such counselor. If the person is determined to have a substance abuse problem, the
459 court shall require him to enter a treatment and/or education program, if available, which, in the opinion
460 of the court, is best suited to the needs of the person. This program may be located in the judicial
461 district in which the conviction was had or in any other judicial district as the court may provide. The
462 treatment and/or education program shall be ~~certified or~~ licensed by the Department of Mental Health,
463 Mental Retardation and Substance Abuse Services or shall be a similar program which is made available
464 through the Department of Corrections *if the court imposes a sentence of one year or more or, if the*
465 *court imposes a sentence of twelve months or less, by a similar program available through a local or*
466 *regional jail, a community corrections program established pursuant to § 53.1-180, or an ASAP*
467 *program certified by the Commission on VASAP.* The ~~court shall~~ *program may* require the person
468 entering such program under the provisions of this section to pay ~~all or part of the costs of the program~~
469 ~~or treatment, excluding the costs of the screening and assessment, based upon the person's a fee for the~~
470 ~~education and treatment component, or both, based upon the defendant's ability to pay.~~

471 B. As a condition of any suspended sentence and probation, the court shall order the person to
472 undergo periodic testing and treatment for substance abuse, if available, as the court deems appropriate
473 based upon consideration of the substance abuse assessment.

474 § 18.2-252. Suspended sentence conditioned upon substance abuse screening, assessment, testing, and
475 treatment or education.

476 The trial judge or court trying the case of any person found guilty of violating any law concerning
477 the use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical
478 substances and like substances, ~~may shall~~ condition any suspended sentence by first requiring such
479 person to agree to undergo ~~periodic medical examinations and tests to ascertain any use or dependency~~
480 ~~on the substances listed above and like substances.~~ The frequency and completeness of such
481 examinations and tests shall be in the discretion of such judge or court, and the results of the
482 examinations and tests given to the judge or court as ordered: *a substance abuse screening pursuant to*
483 *§ 18.2-251.01 and to submit to such periodic substance abuse testing, to include alcohol testing, as may*
484 *be directed by the court. Such testing shall be conducted by the supervising probation agency or by*
485 *personnel of any program or agency approved by the supervising probation agency.* The cost of such
486 examinations and tests ~~testing~~ ordered by the court in addition to any screening and assessment ordered
487 pursuant to ~~§ 18.2-251.01~~ shall be paid by the Commonwealth and taxed as a part of the costs of such
488 criminal proceedings. The judge or court, in his or its discretion, ~~may enter such additional orders as~~
489 ~~may be required to aid in the rehabilitation of such convicted person.~~ *shall order the person, as a*
490 *condition of any suspended sentence, to undergo such treatment or education for substance abuse, if*

491 available, as the judge or court deems appropriate based upon consideration of the substance abuse
 492 assessment. The treatment or education shall be provided by a program licensed by the Department of
 493 Mental Health, Mental Retardation and Substance Abuse Services, by a similar program available
 494 through the Department of Corrections if the court imposes a sentence of one year or more or, if the
 495 court imposes a sentence of twelve months or less, by a similar program available through a local or
 496 regional jail, a community corrections program established pursuant to § 53.1-180, or an ASAP
 497 program certified by the Commission on VASAP.

498 § 18.2-254. Commitment of convicted person for treatment for drug or alcohol abuse.

499 A. Whenever any person who has not previously been convicted of any offense under this article or
 500 under any statute of the United States or of any state relating to narcotic drugs, marijuana, stimulant,
 501 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of
 502 such an offense dismissed as provided in § 18.2-251, is found guilty of violating any law concerning the
 503 use, in any manner, of drugs, controlled substances, narcotics, marijuana, noxious chemical substances
 504 and like substances, the judge or court shall require such person to undergo a substance abuse
 505 screening pursuant to § 18.2-251.01 and to submit to such periodic substance abuse testing, to include
 506 alcohol testing, as may be directed by the court. The cost of such testing ordered by the court shall be
 507 paid by the Commonwealth and taxed as a part of the costs of the criminal proceedings. The judge or
 508 court shall also order the person to undergo such treatment or education for substance abuse, if
 509 available, as the judge or court deems appropriate based upon consideration of the substance abuse
 510 assessment. The treatment or education shall be provided by a program licensed by the Department of
 511 Mental Health, Mental Retardation and Substance Abuse Services or by a similar program available
 512 through the Department of Corrections if the court imposes a sentence of one year or more or, if the
 513 court imposes a sentence of twelve months or less, by a similar program available through a local or
 514 regional jail, a community corrections program established pursuant to § 53.1-180, or an ASAP
 515 program certified by the Commission on VASAP.

516 B. The court trying the case of any person alleged to have committed any offense designated by this
 517 article or by the Drug Control Act (§ 54.1-3400 et seq.) or in any other criminal case in which the
 518 commission of the offense was motivated by, or closely related to, the use of drugs and determined by
 519 the court, pursuant to a substance abuse screening and assessment to be in need of treatment for the use
 520 of drugs may commit, based upon a consideration of the substance abuse assessment, such person, upon
 521 his conviction and with his consent and the consent of the receiving institution, to any facility for the
 522 treatment of persons for the intemperate use of narcotic or other controlled substances, licensed or
 523 supervised by the State Department of Mental Health, Mental Retardation and Substance Abuse
 524 Services Board, if space is available in such facility, for a period of time not in excess of the maximum
 525 term of imprisonment specified as the penalty for conviction of such offense or, if sentence was
 526 determined by a jury, not in excess of the term of imprisonment as set by such jury. Confinement under
 527 such commitment shall be, in all regards, treated as confinement in a penal institution and the person so
 528 committed may be convicted of escape if he leaves the place of commitment without authority. The
 529 court may revoke such commitment, at any time, and transfer the person to an appropriate state or local
 530 correctional facility. Upon presentation of a certified statement from the director of the treatment facility
 531 to the effect that the confined person has successfully responded to treatment, the court may release such
 532 confined person prior to the termination of the period of time for which such person was confined and
 533 may suspend the remainder of the term upon such conditions as the court may prescribe.

534 B. C. The court trying a case in which commission of the offense was related to the defendant's
 535 habitual abuse of alcohol and in which the court determines, pursuant to a substance abuse screening
 536 and assessment, that such defendant is an alcoholic as defined in § 37.1-1 and in need of treatment, may
 537 commit, based upon a consideration of the substance abuse assessment, such person, upon his
 538 conviction and with his consent and the consent of the receiving institution, to any facility for the
 539 treatment of alcoholics licensed or supervised by the State Department of Mental Health, Mental
 540 Retardation and Substance Abuse Services Board, if space is available in such facility for a period of
 541 time not in excess of the maximum term of imprisonment specified as the penalty for conviction.
 542 Confinement under such commitment shall be, in all regards, treated as confinement in a penal
 543 institution and the person so committed may be convicted of escape if he leaves the place of
 544 commitment without authority. The court may revoke such commitment, at any time, and transfer the
 545 person to an appropriate state or local correctional facility. Upon presentation of a certified statement
 546 from the director of the treatment facility to the effect that the confined person has successfully
 547 responded to treatment, the court may release such confined person prior to the termination of the period
 548 of time for which such person was confined and may suspend the remainder of the term upon such
 549 conditions as the court may prescribe.

550 § 18.2-255. Distribution of certain drugs to persons under eighteen prohibited; penalty.

551 A. Except as authorized in the Drug Control Act, Chapter 34 of Title 54.1 (§ 54.1-3400 et seq.), it

552 shall be unlawful for any person who is at least eighteen years of age to knowingly or intentionally (i)
553 distribute any drug classified in Schedule I, II, III or IV or marijuana to any person under eighteen years
554 of age who is at least three years his junior or (ii) cause any person under eighteen years of age ~~who is~~
555 ~~at least three years his junior~~ to assist in such distribution of any drug classified in Schedule I, II, III or
556 IV or marijuana. Any person violating this provision shall upon conviction be imprisoned in a state
557 correctional facility for a period not less than ten nor more than fifty years, and fined not more than
558 \$100,000. Five years of the sentence imposed shall not be suspended, in whole or in part for a
559 conviction under this section involving a Schedule I or II controlled substance or one ounce or more of
560 marijuana. Two years of the sentence imposed shall not be suspended, in whole or in part, for a
561 conviction involving less than one ounce of marijuana.

562 B. It shall be unlawful for any person who is at least eighteen years of age to knowingly or
563 intentionally (i) distribute any imitation controlled substance to a person under eighteen years of age
564 who is at least three years his junior or (ii) cause any person under eighteen years of age ~~who is at least~~
565 ~~three years his junior~~ to assist in such distribution of any imitation controlled substance. Any person
566 violating this provision shall be guilty of a Class 6 felony.

567 § 18.2-255.2. Prohibiting the sale of drugs on or near certain properties.

568 A. It shall be unlawful for any person to manufacture, sell or distribute or possess with intent to sell,
569 give or distribute any controlled substance, imitation controlled substance or marijuana while (i) upon
570 the property, including buildings and grounds, of any public or private elementary, secondary, or post
571 secondary school, or any public or private two-year or four-year institution of higher education; (ii) upon
572 public property or any property open to public use within 1,000 feet of such school property; (iii) on
573 any school bus as defined in § 46.2-100; (iv) upon a *designated* school bus stop, or upon either public
574 property or any property open to public use which is within 1,000 feet of such school bus stop, during
575 the time when school children are waiting to be picked up and transported to or are being dropped off
576 from school or a school-sponsored activity; (v) upon the property, including buildings and grounds, of
577 any publicly owned or publicly operated recreation or community center facility or any public library; or
578 (vi) upon the property of any state hospital as defined in § 37.1-1 or upon public property or property
579 open to public use within 1,000 feet of such an institution. Nothing in this section shall prohibit the
580 authorized distribution of controlled substances.

581 B. Violation of this section shall constitute a separate and distinct felony. Any person violating the
582 provisions of this section shall, upon conviction, be imprisoned for a term of not less than one year nor
583 more than five years and fined not more than \$100,000. *A second or subsequent conviction hereunder*
584 *shall be punished by a minimum, mandatory term of imprisonment of one year which shall not be*
585 *suspended in whole or in part and shall be served consecutively with any other sentence.* However, if
586 such person proves that he sold such controlled substance or marijuana only as an accommodation to
587 another individual and not with intent to profit thereby from any consideration received or expected nor
588 to induce the recipient or intended recipient of the controlled substance or marijuana to use or become
589 addicted to or dependent upon such controlled substance or marijuana, he shall be guilty of a Class 1
590 misdemeanor.

591 C. If a person commits an act violating the provisions of this section, and the same act also violates
592 another provision of law that provides for penalties greater than those provided for by this section, then
593 nothing in this section shall prohibit or bar any prosecution or proceeding under that other provision of
594 law or the imposition of any penalties provided for thereby.

595 § 19.2-123. Release of accused on unsecured bond or promise to appear; conditions of release.

596 A. Any judicial officer may impose any one or any combination of the following conditions of
597 release:

598 1. Place the person in the custody and supervision of a designated person, organization or pretrial
599 services agency which, for the purposes of this section, shall not include a court services unit established
600 pursuant to § 16.1-233;

601 2. Place restrictions on the travel, association or place of abode of the person during the period of
602 release and restrict contacts with household members for a period not to exceed seventy-two hours;

603 2a. Require the execution of an unsecured bond;

604 3. Require the execution of a secure bond which at the option of the accused shall be satisfied with
605 sufficient solvent sureties, or the deposit of cash in lieu thereof. Only the actual value of any interest in
606 real estate or personal property owned by the proposed surety shall be considered in determining
607 solvency and solvency shall be found if the value of the proposed surety's equity in the real estate or
608 personal property equals or exceeds the amount of the bond;

609 3a. Require that the person do any or all of the following: (i) maintain employment or, if
610 unemployed, actively seek employment; (ii) maintain or commence an educational program; (iii) avoid
611 all contact with an alleged victim of the crime and with any potential witness who may testify
612 concerning the offense; (iv) comply with a specified curfew; (v) refrain from possessing a firearm,
613 destructive device, or other dangerous weapon; (vi) refrain from excessive use of alcohol, or use of any

614 illegal drug or any controlled substance not prescribed by a health care provider; and (vii) submit to
615 testing for drugs and alcohol until the final disposition of his case; or

616 4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to
617 assure his good behavior pending trial, including a condition requiring that the person return to custody
618 after specified hours or be placed on home electronic incarceration pursuant to § 53.1-131.2.

619 Upon satisfaction of the terms of recognizance, the accused shall be released forthwith.

620 In addition, where the accused is a resident of a state training center for the mentally retarded, the
621 judicial officer may place the person in the custody of the director of the state facility, if the director
622 agrees to accept custody. Such director is hereby authorized to take custody of such person and to
623 maintain him at the training center prior to a trial or hearing under such circumstances as will
624 reasonably assure the appearance of the accused for the trial or hearing.

625 B. In any jurisdiction served by a pretrial services agency which offers a drug or alcohol screening
626 or testing program approved for the purposes of this subsection by the chief general district court judge,
627 any such person charged with a crime may be requested by such agency to give voluntarily a urine
628 sample, submit to a drug or alcohol screening, or take a breath test for presence of alcohol. ThisA
629 sample may be analyzed for the presence of phencyclidine (PCP), barbiturates, cocaine, opiates or such
630 other drugs as the agency may deem appropriate prior to any hearing to establish bail. The judicial
631 officer and agency shall inform the accused or juvenile being screened or tested that test results shall be
632 used by a judicial officer only at a bail hearing and only to determine appropriate conditions of release
633 or to reconsider the conditions of bail at a subsequent hearing. All screening or test results, and any
634 pretrial investigation report containing the screening or test results, shall be confidential with access
635 thereto limited to judicial officers, the attorney for the Commonwealth, defense counsel, other pretrial
636 service agencies, any criminal justice agency as defined in § 9-169 and, in cases where a juvenile is
637 screened or tested, the parents or legal guardian or custodian of such juvenile. However, in no event
638 shall the judicial officer have access to any screening or test result prior to making a bail release
639 determination or to determining the amount of bond, if any. Following this determination, the judicial
640 officer shall consider the screening or test results and the screening or testing agency's report and
641 accompanying recommendations, if any, in setting appropriate conditions of release. In no event shall a
642 decision regarding a release determination be subject to reversal on the sole basis of such screening or
643 test results. Any accused or juvenile whose urine sample has tested positive for such drugs and who is
644 admitted to bail may, as a condition of release, be ordered to refrain from use of alcohol or illegal drugs
645 and may be required to be tested on a periodic basis until final disposition of his case to ensure his
646 compliance with the order. Sanctions for a violation of any condition of release, which violations shall
647 include subsequent positive drug or alcohol test results or failure to report as ordered for testing, may be
648 imposed in the discretion of the judicial officer and may include imposition of more stringent conditions
649 of release, contempt of court proceedings or revocation of release. Any test given under the provisions
650 of this subsection which yields a positive drug or alcohol test result shall be reconfirmed by a second
651 test if the person tested denies or contests the initial drug or alcohol test positive result. The results of
652 any drug or alcohol test conducted pursuant to this subsection shall not be admissible in any judicial
653 proceeding other than for the imposition of sanctions for a violation of a condition of release.

654 C. [Repealed.]

655 D. Nothing in this section shall be construed to prevent an officer taking a juvenile into custody
656 from releasing that juvenile pursuant to § 16.1-247. If any condition of release imposed under the
657 provisions of this section is violated, a judicial officer may issue a *capias* or order to show cause why
658 the recognizance should not be revoked.

659 § 19.2-295.2. Post-release supervision of felons.

660 A. At the time the court imposes sentence upon a conviction for any felony offense committed on or
661 after January 1, 1995, the court may, and for any felony offense committed on or after July 1, 2000, the
662 court shall, if the substance abuse screening and assessment conducted pursuant to § 18.2-251.01
663 indicates the presence of a substance abuse problem, in addition to any other punishment imposed if
664 such other punishment includes an active term of incarceration in a state or local correctional facility,
665 impose a term in addition to the active term of not less than six months nor more than three years, as
666 the court may determine. Such additional term shall be suspended and the defendant placed under
667 post-release supervision upon release from the active term of incarceration. The period of supervision
668 shall be established by the court; however, such period shall not be less than six months nor more than
669 three years. Periods of post-release supervision imposed pursuant to this section upon more than one
670 felony conviction may be ordered to run concurrently. Periods of post-release supervision imposed
671 pursuant to this section may be ordered to run concurrently with any period of probation the defendant
672 may also be subject to serve.

673 B. The period of post-release supervision shall be conducted in the same manner as a like period of
674 supervised probation, including a requirement that the defendant shall abide by such terms and

675 conditions as the court may establish. Failure to successfully abide by such terms and conditions shall be
676 grounds to terminate the period of post-release supervision and recommit the defendant to the
677 Department of Corrections or to the local correctional facility from which he was previously released.
678 Procedures for any such termination and recommitment shall be conducted in the same manner as
679 procedures for the revocation of probation and imposition of a suspended sentence.

680 C. Post-release supervision programs shall be operated through the probation and parole districts
681 established pursuant to § 53.1-141.

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

684 **2. That the provisions of this act may result in a net increase in periods of imprisonment in state**
685 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
686 **is \$.**

687 **3. That the Virginia Criminal Sentencing Commission shall review the minimum discretionary**
688 **felony sentencing guideline midpoint for convictions related to manufacturing, selling, giving,**
689 **distributing, or possessing with intent to distribute a Schedule I or II drug or marijuana when the**
690 **defendant has previously been convicted of such an offense. The Commission's review shall include**
691 **an examination of whether the minimum midpoint is adequate in deterring recidivism and**
692 **insuring that criminal justice sanctions are integrated with substance abuse treatment services**
693 **available through the Department of Corrections and local corrections agencies and facilities. The**
694 **Commission's review shall be completed in time to make recommendations to the General**
695 **Assembly on or before December 1, 2000.**