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SENATE BILL NO. 151

Offered January 11, 2006

Prefiled January 10, 2006

A BILL to amend and reenact §§ 9.1-177.1 and 53.1-145 of the Code of Virginia, relating to probation information on criminal street gang members.

Patron—Deeds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 9.1-177.1 and 53.1-145 of the Code of Virginia are amended and reenacted as follows:**

§ 9.1-177.1. Confidentiality of records of and reports on adult persons under investigation by or placed on probation supervision with a local community-based probation program.

A. Any investigation report prepared by a local probation officer is confidential and is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). Such reports shall be filed as a part of the case record. Such reports shall be made available only by court order and shall be sealed upon final order by the court; except that such reports shall be available upon request to (i) any criminal justice agency, as defined in § 9.1-101, of this or any other state or of the United States; (ii) any agency where the accused is referred for assessment or treatment; or (iii) counsel for the person who is the subject of the report.

B. Any report on the progress of an offender under the supervision or of a local community-based probation agency and any information relative to the identity of or inferring personal characteristics of an accused, including demographic information, diagnostic summaries, records of office visits, medical, substance abuse, psychiatric or psychological records or information, substance abuse screening, assessment and testing information, and other sensitive information not explicitly classified as criminal history record information, is exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). However, such information may be disseminated to criminal justice agencies as defined in § 9.1-101 in the discretion of the custodian of these records.

C. Probation officers are authorized to disclose to law-enforcement officers information regarding the criminal street gang membership of probationers.

§ 53.1-145. Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein;

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations

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59 governing the officer's exercise of this authority shall be promulgated by the Board; ~~and~~
60 7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the
61 Board and upon the certification of appropriate training and specific authorization by a judge of a circuit
62 court; *and*
63 8. *Upon request, disclose to law-enforcement officers information regarding the criminal street gang*
64 *membership of probationers.*
65 Nothing in this article shall require probation and parole officers to investigate or supervise cases
66 before general district or juvenile and domestic relations district courts.