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SENATE BILL NO. 1079

Offered January 10, 2007

Prefiled January 9, 2007

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-299.3, relating to Therapeutic Incarceration Program.*

Patron—Puckett

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 19.2-299.3 as follows:**

§ 19.2-299.3. *Therapeutic Incarceration Program; eligibility for therapeutic incarceration; sentencing; program participation; program completion or removal; sentence suspension.*

A. *A defendant who otherwise would be sentenced to a fixed term of incarceration of three years or longer for a felony conviction and who the court determines requires treatment for drug or alcohol substance abuse may be considered for commitment to the Therapeutic Incarceration Program.*

B. *Following conviction and prior to imposition of sentence, or following a finding that the defendant's probation should be revoked, upon motion of the defendant or the attorney for the Commonwealth or upon the court's own motion, the court may order the Department of Corrections to conduct an evaluation of the defendant to determine suitability for participation in the Therapeutic Incarceration Program.*

C. *Upon determination that such commitment is in the best interest of the Commonwealth and the defendant and that facilities are available for the confinement of the defendant, the Department of Corrections shall recommend to the court in writing that the defendant be committed to the Therapeutic Incarceration Program.*

D. *Upon receipt of such a recommendation and determination by the court that the defendant may benefit from the program and become capable of returning to society as a productive citizen following successful completion of the program, and if the defendant would otherwise be committed to the Department of Corrections, the court shall impose a sentence that may include a stipulation that upon certification by the Department of Corrections that the defendant has successfully completed an intensive therapeutic community-style substance abuse treatment program of a duration of 18 months or longer and has successfully completed a transitional therapeutic community-style substance abuse reentry program of six months, the remaining balance of the imposed sentence shall be suspended by the court.*

E. *The court shall order that upon successful completion of the program, the defendant shall be released from confinement and be on supervised probation for a period to be specified by the court. The court shall further order that the defendant shall make reasonable efforts to secure and maintain employment, comply with a plan of restitution or community service if appropriate, comply with a plan for payment of fines, if any, and costs of court, and undergo ongoing substance abuse treatment, if necessary. The court may impose such other terms and conditions of probation, as it deems appropriate.*

F. *Upon the defendant's voluntary withdrawal from the program, removal from the program by the Department of Corrections for intractable behavior, failure to participate in program activities, or failure to comply with the terms and conditions of the program, the Department of Corrections shall notify the court, outlining specific reasons for the removal and shall reassign the defendant to another incarceration assignment as appropriate. Under such terms, the defendant shall serve out the balance of the sentence imposed by the court. Once removed from the program, the defendant shall not be eligible to earn good time sentence credits unless the defendant reenters the program. Upon the request of the defendant and agreement by the Department of Corrections, the defendant may be returned to the Therapeutic Incarceration Program to strive for program completion. No action on the part of the sentencing court shall be required to effect program removal or program re-enrollment.*

G. *At the completion of one year of operation of the Therapeutic Incarceration Program, the Department of Corrections shall conduct an evaluation of the program and submit a report to the Office of the Secretary of Public Safety for review.*

INTRODUCED

SB1079