

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 517

*An Act to amend and reenact §§ 16.1-272, 53.1-202.2, and 53.1-202.3 of the Code of Virginia, relating to serious juvenile offenders.*

[H 1207]

Approved March 10, 2008

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

**1. That §§ 16.1-272, 53.1-202.2, and 53.1-202.3 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-272. Power of circuit court over juvenile offender.

A. In any case in which a juvenile is indicted, the offense for which he is indicted and all ancillary charges shall be tried in the same manner as provided for in the trial of adults, except as otherwise provided with regard to sentencing. Upon a finding of guilty of any charge, the court shall fix the sentence without the intervention of a jury.

1. If a juvenile is convicted of a violent juvenile felony, for that offense and for all ancillary crimes the court may order that (i) the juvenile serve a portion of the sentence as a serious juvenile offender under § 16.1-285.1 and the remainder of such sentence in the same manner as provided for adults; (ii) the juvenile serve the entire sentence in the same manner as provided for adults; or (iii) the portion of the sentence to be served in the same manner as provided for adults be suspended conditioned upon successful completion of such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case including, but not limited to, commitment under subdivision 14 of § 16.1-278.8 or § 16.1-285.1.

2. If the juvenile is convicted of any other felony, the court may sentence or commit the juvenile offender in accordance with the criminal laws of this Commonwealth or may in its discretion deal with the juvenile in the manner prescribed in this chapter for the hearing and disposition of cases in the juvenile court, including, but not limited to, commitment under § 16.1-285.1 or may in its discretion impose an adult sentence and suspend the sentence conditioned upon successful completion of such terms and conditions as may be imposed in a juvenile court upon disposition of a delinquency case.

3. If the juvenile is not convicted of a felony but is convicted of a misdemeanor, the court shall deal with the juvenile in the manner prescribed by law for the disposition of a delinquency case in the juvenile court.

B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile court and places the juvenile on probation, the juvenile may be supervised by a juvenile probation officer.

C. Whether the court sentences and commits the juvenile as a juvenile under this chapter or under the criminal law, in cases where the juvenile is convicted of a felony in violation of § 18.2-61, 18.2-63, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.5, 18.2-370 or 18.2-370.1 or, where the victim is a minor or is physically helpless or mentally incapacitated as defined in § 18.2-67.10, subsection B of § 18.2-361 or subsection B of § 18.2-366, the clerk shall make the report required by § 19.2-390 to the Sex Offender and Crimes Against Minors Registry established pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

D. A juvenile sentenced pursuant to clause (i) of subdivision A 1 shall be eligible to earn sentence credits in the manner prescribed by § 53.1-202.2 for the portion of the sentence served as a serious juvenile offender under § 16.1-285.1.

Ð E. If the court sentences the juvenile as a juvenile under this chapter, the clerk shall provide a copy of the court's final order or judgment to the court service unit in the same locality as the juvenile court to which the case had been transferred.

§ 53.1-202.2. Eligibility for earned sentence credits.

A. Every person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility shall be eligible to earn sentence credits in the manner prescribed by this article. Such eligibility shall commence upon the person's incarceration in any correctional facility following entry of a final order of conviction by the committing court. As used in this chapter, "sentence credit" and "earned sentence credit" mean deductions from a person's term of confinement earned through adherence to rules prescribed pursuant to § 53.1-25, through program participation as required by §§ 53.1-32.1 and 53.1-202.3, and by meeting such other requirements as may be established by law or regulation. One earned sentence credit shall equal a deduction of one day from a person's term of incarceration.

B. A juvenile convicted as an adult and sentenced as a serious juvenile offender under clause (i) of subdivision A 1 of § 16.1-272 shall be eligible to earn sentence credits for the portion of the sentence

*served with the Department of Juvenile Justice in the manner prescribed by this article. Consideration for earned sentence credits shall require adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.*

§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.

A maximum of four and one-half sentence credits may be earned for each ~~thirty~~ 30 days served. The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1. *For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.* Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.