

2008 SESSION

HOUSE SUBSTITUTE

084235708

HOUSE BILL NO. 440

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Rules
on February 5, 2008)

(Patrons Prior to Substitute—Delegates Rust [HB 762], Cole [HB 47], Gilbert [HB 929], Kilgore [HB 779]
and Poindexter [HBs 757 and 1435])

A BILL to amend the Code of Virginia by adding a section numbered 19.2-120.1, relating to
presumption of no bail for illegal aliens charged with certain crimes.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-120.1 as follows:

§ 19.2-120.1. Presumption of no bail for illegal aliens charged with certain crimes.

In accordance with the provisions of subsection B of § 19.2-120, the judicial officer shall presume, subject to rebuttal, that no condition or combination of conditions will reasonably assure the appearance of the person or the safety of the public if (i) the person is currently charged with an offense listed in subsection C of § 17.1-805, subsection A of § 19.2-297.1, or any felony offense under Chapter 4 (§ 18.2-30 et seq.) of Title 18.2, any felony offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or any offense under Article 2 (§ 18.2-266 et seq.), Article 4 (§ 18.2-279 et seq.), Article 5 (§ 18.2-288 et seq.), Article 6 (§ 18.2-299 et seq.), or Article 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2, and (ii) the court finds that the person is not legally present in the United States. The court shall presume that the person is not legally present in the United States when the person has been identified as such by the United States Immigration and Customs Enforcement. All misdemeanor offenses, as well as those felony offenses under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, for which the presumption exists under this section shall be limited to those offenses for which the United States Immigration and Customs Enforcement has guaranteed that, in all cases, it will issue a detainer for the initiation of removal proceedings and agrees to reimburse for the cost of incarceration from the time of the issuance of the detainer.

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