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HOUSE BILL NO. 440**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Senate Committee for Courts of Justice
on February 20, 20 08)

(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.

*A. In addition to the presumption against the admission to bail under 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 A of § 19.2-297.1, subsection C of § 17.1-805, any offense
under Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 except any offense under subsection A of § 18.2-57.2,
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.), or any local ordinance substantially similar thereto, 4 (§ 18.2-279 et seq.),
5 (§ 18.2-288 et seq.), 6 (§ 18.2-299 et seq.), or 7 (§ 18.2-308 et seq.) of Chapter 7 of Title 18.2, and
(ii) the person has been identified as being illegally present in the United States by the United States
Immigration and Customs Enforcement.*

*B. Notwithstanding subsection A, no presumption shall exist under this section as to any
misdemeanor offense, or any felony offense under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title
18.2, unless the United States Immigration and Customs Enforcement has guaranteed that, in all such
cases in the Commonwealth, it will issue a detainer for the initiation of removal proceedings and agree
to reimburse for the cost of incarceration from the time of the issuance of the detainer.*