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SENATE BILL NO. 1196**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee for Courts of Justice
on February 4, 2009)

(Patron Prior to Substitute—Senator Puckett)

A *BILL to amend the Code of Virginia by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of a section numbered 19.2-316.4, relating to the creation of a behavioral correction program.*

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 18 of Title 19.2 an article numbered 6, consisting of a section numbered 19.2-316.4, as follows:

Article 6.

Behavioral Correction Program.

§ 19.2-316.4. Eligibility for behavioral correction; sentencing; program participation; program completion or removal; sentence suspension.

A. An offender who otherwise would have been sentenced to a fixed term of incarceration of three years or longer for a felony conviction, who has not been convicted of a violent felony as defined in subsection C of § 17.1-805, who has not previously participated in the Behavioral Correction Program more than once, and who the court determines requires treatment for drug or alcohol substance abuse issues may be considered for commitment to the Behavioral Correction Program.

B. Following conviction and prior to imposition of sentence or following a finding that the offender's probation should be revoked, upon motion of the offender 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 offender to determine suitability for participation in the Behavioral Correction Program.

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

D. Upon receipt of such a recommendation and determination by the court that the offender will benefit from the program and is capable of returning to society as a productive citizen following successful completion of the program, and if the offender would otherwise be committed to the Department of Corrections, the court shall impose the appropriate sentence with the stipulation that upon certification by the Department of Corrections that the offender has successfully completed an intensive therapeutic community-style substance abuse treatment program of a duration of 24 months or longer, the remaining balance of the imposed sentence may be suspended by the court.

E. Upon suspension of the remainder of the sentence, the offender 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 offender 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 offender'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 offender to another incarceration assignment as appropriate. Under such terms, the offender shall serve out the balance of the sentence imposed by the court. No action on the part of the sentencing court shall be required to effect program removal.

G. At the completion of two years of operation of the Behavioral Correction Program, the Department of Corrections shall conduct an evaluation of the program and generate a report to the Office of the Secretary of Public Safety for review.