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SENATE BILL NO. 1329

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 McEachin)

A BILL to amend the Code of Virginia by adding in article 3 of Chapter 1 of Title 18.2 a section numbered 18.2-17.1, relating to collection of collateral consequences of criminal convictions.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in article 3 of Chapter 1 of Title 18.2 a section numbered 18.2-17.1 as follows:

§ 18.2-17.1. Collateral consequences of criminal convictions.

A. For purposes of this section:

"Collateral sanction" means a penalty, disability, or disadvantage, however denominated, imposed on an individual as a result of the individual's conviction or juvenile adjudication for a felony, misdemeanor, or other offense, that applies by operation of law whether or not it is included in the judgment or sentence. The term does not include imprisonment, probation, parole, supervised release, forfeiture, restitution, fine, assessment, or costs of prosecution.

"Disqualification" means a penalty, disability, or disadvantage, however denominated, that an administrative agency, governmental official, or a court in a civil proceeding is authorized, but not required, to impose on an individual on grounds relating to the individual's conviction or juvenile adjudication for a felony, misdemeanor, or other offense.

B. The Attorney General:

1. Shall identify or cause to be identified each provision in the Constitution of Virginia, or in the Commonwealth's statutes or administrative regulations that imposes a collateral sanction or authorizes the imposition of a disqualification and any provision of law that may afford relief from the collateral sanction or disqualification.

2. Shall collect or cause to be collected, by October 1, 2009, citations to, and the text or short descriptions of, the provisions identified under subdivision 1.

3. Shall update or caused to be updated the collection each July 1, starting in 2010.

4. Shall display in a prominent manner at the beginning of the collection a statement containing the following items:

a. This is a collection of constitutional provisions, statutes, and regulations and the collection itself does not have the force of law.

b. An error or omission in this collection is not a reason for invalidating a conviction or a plea or for otherwise avoiding or imposing a collateral sanction or disqualification.

c. The laws of the United States, other jurisdictions, and local governing bodies impose additional collateral sanctions and disqualifications not listed in this collection.

d. This collection does not include any law or other provision regarding a collateral sanction or a disqualification, or relief from the collateral sanction or disqualification, enacted or adopted after the collection was prepared or updated.

C. The Attorney General shall make the collection available to the public on the Internet without charge within 30 days after it is initially created or updated.

D. Noncompliance with this section does not give rise to a cause of action for relief from a collateral sanction or disqualification.