

VIRGINIA ACTS OF ASSEMBLY -- 2010 RECONVENED SESSION

CHAPTER 845

An Act to establish up to two pilot immediate sanction probation programs.

[H 927]

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. *§ 1. That there may be established in the Commonwealth up to two immediate sanction probation programs in accordance with the following provisions:*

A. As a condition of a sentence suspended pursuant to § 19.2-303 of the Code of Virginia, a court may order a defendant convicted of a crime, other than a violent crime as defined in subsection C of § 17.1-805 of the Code of Virginia, to participate in an immediate sanction probation program.

B. If a participating offender fails to comply with any term or condition of his probation and the alleged probation violation is not that the offender committed a new crime or infraction, (i) his probation officer shall immediately issue a noncompliance letter pursuant to § 53.1-149 of the Code of Virginia authorizing his arrest at any location in the Commonwealth and (ii) his probation violation hearing shall take priority on the court's docket. The probation officer may, in any event, exercise any other lawful authority he may have with respect to the offender.

C. When a participating offender is arrested pursuant to subsection B, the court shall conduct an immediate sanction hearing unless (i) the alleged probation violation is that the offender committed a new crime or infraction; (ii) the alleged probation violation is that the offender absconded for more than seven days; or (iii) the offender, attorney for the Commonwealth, or the court objects to such immediate sanction hearing. If the court conducts an immediate sanction hearing, it shall proceed pursuant to subsection D. Otherwise, the court shall proceed pursuant to § 19.2-306 of the Code of Virginia.

D. At the immediate sanction hearing, the court shall receive the noncompliance letter, which shall be admissible as evidence, and may receive other evidence. If the court finds good cause to believe that the offender has violated the terms or conditions of his probation, it may (i) revoke no more than 30 days of the previously suspended sentence and (ii) continue or modify any existing terms and conditions of probation. If the court does not modify the terms and conditions of probation or remove the defendant from the program, the previously ordered terms and conditions of probation shall continue to apply. The court may remove the offender from the immediate sanction probation program at any time.

2. *That the Virginia Criminal Sentencing Commission shall report to the Chairmen of the House and Senate Courts of Justice Committees on or before January 12, 2012, on the operation and costs of any established immediate sanction probation program, including statistics on the characteristics of the participants and the outcomes of their participation.*

3. *That the Virginia Criminal Sentencing Commission may calculate the impact of a revocation of a suspended sentence for a participant in an immediate sanction probation program differently than the revocation of a sentence pursuant to § 19.2-306 of the Code of Virginia.*

4. *That the provisions of this act shall expire on July 1, 2012.*