

10104062D

HOUSE BILL NO. 927**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 12, 2010)

(Patron Prior to Substitute—Delegate Bell, Robert B.)

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-303.5, relating to an immediate sanction probation program.*

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 19.2-303.5 as follows:**

§ 19.2-303.5. Immediate sanction probation program.

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

B. *If a participating offender fails to comply with any term or condition of his probation (i) his probation officer shall immediately issue a noncompliance letter pursuant to § 53.1-149, authorizing his arrest at any location in the Commonwealth; (ii) he shall be held without bail prior to the hearing; and (iii) his probation violation hearing shall take priority on the court's docket. The probation officer may also 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, (ii) the alleged probation violation is that the offender absconded for more than seven days; (iii) the offender, the Commonwealth, or the court object to such immediate sanction hearing; or (iv) the offender fails to execute a waiver of counsel. 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.*

D. *At the immediate sanction hearing, the defendant shall proceed without counsel. 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 as many as 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 may calculate the impact of a revocation of a suspended sentence pursuant to this section differently than the revocation of a sentence pursuant to § 19.2-306.HOUSE
SUBSTITUTE

HB927H1