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## SENATE BILL NO. 111

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 7, 2012)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend and reenact § 19.2-306 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-303.6, relating to establishing Sanctions with Unified Rapid Enforcement (SURE).

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-306 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-303.6 as follows:

§ 19.2-303.6. Sanctions with Unified Rapid Enforcement (SURE).

A. There is hereby created a program designated as Sanctions with Unified Rapid Enforcement (SURE).

B. A person placed in the SURE program shall be frequently reviewed by the probation and parole district office to ensure that there are no violations of the conditions of his suspended sentence. If a probation officer has probable cause to believe that a person in the SURE program has violated any condition of his suspension, he shall, without exception, under the provisions of § 53.1-149, immediately arrest the defendant or cause him to be arrested by issuing a noncompliance statement. The defendant shall not be admitted to bail. After being taken into custody, the defendant shall be brought before the court within 48 hours, except that if the defendant is taken into custody on a Friday or the day before an extended holiday, his hearing before the court shall be given precedence on the 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 a SURE expedited hearing unless (i) the alleged probation violation is that the offender committed a new felony offense or a misdemeanor for which a jail sentence can be imposed; (ii) the alleged probation violation is that the offender absconded for more than seven days; or (iii) the offender, the attorney for the Commonwealth, or the court objects to such SURE expedited hearing. If the court conducts a SURE expedited hearing, it shall proceed pursuant to subsection D; otherwise, the court shall proceed pursuant to § 19.2-306.

D. At the SURE expedited hearing, the court shall receive a written noncompliance statement from the probation and parole district office, 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 shall revoke some portion of the previously suspended sentence pursuant to subsection E and may 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 SURE program at any time.

E. 1. If the court finds good cause to believe that a defendant subject to SURE sanctions has violated the terms of suspension, it shall impose the following applicable sentence:

- a. For the first violation, three to 10 days in jail;
- b. For the second subsequent violation, 10 to 20 days in jail;
- c. For the third subsequent violation, 20 to 30 days in jail; and
- d. For the fourth subsequent violation, 30 to 90 days in jail.

2. No sentence set out in this subsection may be:

- a. Suspended in whole or in part;
- b. Reduced as a result of credits earned in accordance with § 53.1-187; or
- c. Served on work release or home electronic monitoring as defined in §§ 53.1-131 and 53.1-131.2.

F. After the defendant has served his sentence for a fourth subsequent violation set out in subdivision E 1, the court may have the defendant assessed by the probation and parole office for addiction to, or dependence on, controlled substances. If the assessment indicates that the defendant is addicted to, or dependent on, a controlled substance or substances, the court shall provide the defendant the option to enter a drug treatment court program established in accordance with the provisions of § 18.2-254.1 if such a program exists in the circuit or, if one is not available, another substance abuse treatment program approved by the probation and parole district office.

G. Upon completion of a sentence for a fourth subsequent violation, an offender shall be removed from the SURE program, and for any subsequent violation of the conditions of suspension, the court shall proceed in accordance with the provisions of § 19.2-306. No defendant who has completed a

60 *sentence for a fourth violation is eligible for the SURE program thereafter.*

61 *H. The Virginia Criminal Sentencing Commission may calculate the impact of a revocation of a*  
62 *suspended sentence for a participant in an immediate sanction probation program differently than the*  
63 *revocation of a sentence pursuant to § 19.2-306.*

64 *§ 19.2-306. Revocation of suspension of sentence and probation.*

65 A. In any case in which the court has suspended the execution or imposition of sentence, the court  
66 may revoke the suspension of sentence for any cause the court deems sufficient that occurred at any  
67 time within the probation period, or within the period of suspension fixed by the court. If neither a  
68 probation period nor a period of suspension was fixed by the court, then the court may revoke the  
69 suspension for any cause the court deems sufficient that occurred within the maximum period for which  
70 the defendant might originally have been sentenced to be imprisoned.

71 B. The court may not conduct a hearing to revoke the suspension of sentence unless the court, within  
72 one year after the expiration of the period of probation or the period of suspension, issues process to  
73 notify the accused or to compel his appearance before the court. If neither a probation period nor a  
74 period of suspension was fixed by the court, then the court shall issue process within one year after the  
75 expiration of the maximum period for which the defendant might originally have been sentenced to be  
76 incarcerated. Such notice and service of process may be waived by the defendant, in which case the  
77 court may proceed to determine whether the defendant has violated the conditions of suspension.

78 C. 1. If the court, after hearing, finds good cause to believe that the defendant has violated the terms  
79 of suspension, then: (i) if the court originally suspended the imposition of sentence, the court shall  
80 revoke the suspension, and the court may pronounce whatever sentence might have been originally  
81 imposed or (ii) if the court originally suspended the execution of the sentence, the court shall revoke the  
82 suspension and the original sentence shall be in full force and effect. The court may again suspend all or  
83 any part of this sentence and may place the defendant upon terms and conditions or probation.

84 2. *In addition, the court, after hearing pursuant to subdivision 1, may place the defendant, with the*  
85 *defendant's consent and the consent of the attorney for the Commonwealth, as a condition of probation,*  
86 *in the SURE program established in § 19.2-303.6 if the defendant meets the following criteria:*

87 *a. Convicted of a felony offense for which the sentence has been suspended in whole or in part;*

88 *b. Charged with violation of the conditions of probation supervision other than (i) absconding for*  
89 *more than seven days or (ii) commitment of a new felony offense or misdemeanor for which a jail*  
90 *sentence can be imposed; and*

91 *c. Never been convicted of a violent felony offense, as defined in § 17.1-805.*

92 D. If any court has, after hearing, found no cause to impose a sentence that might have been  
93 originally imposed, or to revoke a suspended sentence or probation, then any further hearing to impose a  
94 sentence or revoke a suspended sentence or probation, based solely on the alleged violation for which  
95 the hearing was held, shall be barred.

96 E. Nothing contained herein shall be construed to deprive any person of his right to appeal in the  
97 manner provided by law to the circuit court having criminal jurisdiction from a judgment or order  
98 revoking any suspended sentence.

99 **2. That the Virginia Criminal Sentencing Commission shall select no more than 10 jurisdictions to**  
100 **be pilot sites and shall administer the provisions of this act in the jurisdictions selected as pilot**  
101 **sites effective July 1, 2012.**

102 **3. That the provisions of § 19.2-303.6 as added by this act and subdivision C 2 of § 19.2-306 of the**  
103 **Code of Virginia shall be implemented in the jurisdictions that are selected as pilot sites effective**  
104 **July 1, 2012, and shall be implemented in the remaining jurisdictions in the Commonwealth on**  
105 **July 1, 2014.**