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SENATE BILL NO. 144

Offered January 13, 2016

Prefiled December 29, 2015

A *BILL to amend the Code of Virginia by adding a section numbered 18.2-346.2, relating to deferred disposition; first offense solicitation of prostitution.*

Patron—Edwards

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 18.2-346.2 as follows:**

§ 18.2-346.2. Persons charged with first offense of solicitation of prostitution may be placed on probation; conditions; education programs; costs and fees; violations; discharge.

A. When a person is charged with a misdemeanor violation of subsection B of § 18.2-346, the court may defer the proceedings against such person without a finding of guilt and place him on probation under the terms and conditions of this section.

B. For a person to be eligible for such deferral, the court shall find that (i) the person was an adult at the time of the commission of the offense; (ii) the person has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to solicitation of prostitution; (iii) the person has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section; (iv) the person pleads guilty to, or enters a plea of not guilty or nolo contendere and the court finds the evidence is sufficient to find the person guilty of, a misdemeanor violation of subsection B of § 18.2-346; and (v) the person consents to such deferral.

C. As a term or condition, the court shall require the person to successfully complete all treatment, education programs or services, or any combination thereof that, in the opinion of the court, may be best suited to the needs of the person. The court shall require the person entering such education or treatment program or services under the provisions of this section to pay all or part of the costs of the program or services, including the costs of any assessment, evaluation, testing, education, and treatment, based upon the person's ability to pay. Such programs or services shall offer a sliding-scale fee structure or other mechanism to assist participants who are unable to pay the full costs of the required programs or services.

D. As a term or condition, the court shall require the person to (i) be of good behavior for a total period of not less than two years following the deferral of proceedings, including the period of supervised probation, if available; (ii) submit to testing for infection with human immunodeficiency viruses and hepatitis C; and (iii) comply with a plan of up to 24 hours of community service.

E. The court shall, unless done at arrest, order the person to report to the original arresting law-enforcement agency to submit to fingerprinting.

F. Upon fulfillment of the terms and conditions specified in the court order, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. No charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

G. Upon violation of a term or condition of supervised probation or of the period of good behavior, the court may enter an adjudication of guilt and proceed as otherwise provided by law.

H. Notwithstanding any other provision of this section, whenever a court places a person on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of Article 6.1 (§ 18.2-307.1 et seq.) of Chapter 7.

INTRODUCED

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