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SENATE BILL NO. 35

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on March 2, 2018)

(Patron Prior to Substitute—Senator Stanley)

A *BILL* to amend the Code of Virginia by adding a section numbered 19.2-303.01, relating to sentence reduction; substantial assistance to prosecution.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 19.2-303.01 as follows:

§ 19.2-303.01. Reduction of sentence; substantial assistance to prosecution.

Notwithstanding any other provision of law or rule of court, upon motion of the attorney for the Commonwealth, the sentencing court may reduce the defendant's sentence if the defendant, after entry of the final judgment order, provided substantial assistance in investigating or prosecuting another person for (i) an act of violence as defined in § 19.2-297.1 or any violation of § 18.2-248, 18.2-248.01, 18.2-248.02, 18.2-248.03, 18.2-248.1, 18.2-248.5, 18.2-251.2, 18.2-251.3, 18.2-255, 18.2-255.2, 18.2-258, 18.2-258.02, 18.2-258.1, or 18.2-258.2, or any substantially similar offense in any other jurisdiction, which offense would be a felony if committed in the Commonwealth; (ii) a conspiracy to commit any of the offenses listed in clause (i); or (iii) violations as a principal in the second degree or accessory before the fact of any of the offenses listed in clause (i). In determining whether the defendant has provided substantial assistance pursuant to the provisions of this section, the court shall consider (a) the court's evaluation of the significance and usefulness of the defendant's assistance, taking into consideration the Commonwealth's evaluation of the assistance rendered; (b) the truthfulness, completeness, and reliability of any information or testimony provided by the defendant; (c) the nature and extent of the defendant's assistance; (d) any injury suffered or any danger or risk of injury to the defendant or his family resulting from his assistance; and (e) the timeliness of the defendant's assistance. If the motion is made more than one year after entry of the final judgment order, the court may reduce a sentence only if the defendant's substantial assistance involved (1) information not known to the defendant until more than one year after entry of the final judgment order, (2) information provided by the defendant within one year of entry of the final judgment order but that did not become useful to the Commonwealth until more than one year after entry of the final judgment order, or (3) information the usefulness of which could not reasonably have been anticipated by the defendant until more than one year after entry of the final judgment order and which was promptly provided to the Commonwealth by the defendant after its usefulness was reasonably apparent.