

24109071D

SENATE BILL NO. 80

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 8, 2024)

(Patron Prior to Substitute—Senator Favola)

A BILL to amend and reenact § 19.2-304 of the Code of Virginia, relating to decreasing probation period; criteria for mandatory reduction; report.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-304 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-304. Increasing or decreasing probation period and modification of conditions; mandatory reduction in probation period.

A. The court may subsequently increase ~~or decrease~~ the probation period and may revoke or modify any condition of probation, but only upon a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth. *After fixing the probation period, the court may subsequently decrease the probation period without a hearing if warranted by the defendant's conduct and in the interests of justice.*

B. The defendant's supervised probation period shall be reduced if:

1. The defendant completes a qualifying educational activity, including obtaining a high school diploma, passing high school equivalency testing, completing 15 credit hours with at least a 2.0 grade point average at a postsecondary educational institution, obtaining an academic degree, completing a peer recovery specialist training program approved by the Department of Behavioral Health and Developmental Services, completing a state-certified training program, or completing a vocational or job training program made available by the Department of Corrections or by a community provider approved by the Department of Corrections;

2. The defendant maintains verifiable employment where the defendant is employed at least an average of 30 hours per week; or

3. The defendant is in compliance with any state-certified or state-approved mental health or substance abuse treatment program or successfully completes a state-certified or state-approved mental health or substance abuse treatment program.

C. A defendant shall not begin accruing credit for any educational activity, employment, or treatment program described in subsection B until the first day of the first full month that such defendant is on supervised probation. A defendant may accrue credits from each of subdivisions B 1, 2, and 3 in each six-month reporting period. Such credits shall not accrue during any calendar month in which the defendant is found in violation of his supervised probation, unless such violation is a technical violation and the probation officer for such defendant determines that there exists a compelling reason to award credits for such period of time. For every six-month period of qualifying educational activity the defendant completes in accordance with subdivision B 1, the defendant's supervised probation period shall be reduced by 60 days. For every six-month period of verifiable employment the defendant completes in accordance with subdivision B 2, the defendant's supervised probation period shall be reduced by 30 days. For every six-month period of qualifying mental health or substance abuse treatment program compliance or for completion of a qualifying mental health or substance abuse treatment program in accordance with subdivision B 3, the defendant's supervised probation period shall be reduced by 60 days.

A defendant's probation officer shall promptly and no less than quarterly calculate any reductions to such defendant's supervised probation for any qualifying evidence-based recidivism-reducing activities, including completing qualifying educational activities, maintaining verifiable employment, and completing or complying with any state-certified or state-approved mental health or substance abuse treatment program under this subsection. A defendant's probation officer shall verify employment through supporting documentation, which may include any record, employer letter, pay stub, contract, or other approved method of verification by the probation services agency or the Department of Corrections. A defendant's probation officer shall verify the education and vocation compliance or completion through supporting documentation, which may include any record, facilitator or program letter, report card, progress report, or other approved method of verification by the probation services agency or Department of Corrections. A defendant's probation officer shall verify the mental health or substance abuse treatment program compliance or completion through supporting documentation, which may include any record, facilitator or program letter, progress report, sign-in sheet, or other approved method of verification by the probation services agency or the Department of Corrections. A decision by the defendant's probation officer regarding the qualification of any educational activity, employment, or treatment program described in subsection B is final.

60 When the accumulation of time served on probation and any earned reduction is equal to the
61 imposed supervised probation term, and the defendant has satisfied all nonmonetary conditions of his
62 supervised probation, including any court-ordered programming or community service hours, the
63 probation officer shall notify the court of the defendant's reduction in his probation term under this
64 subsection. Upon receipt of this information, the court shall enter an order discharging the person from
65 supervised probation.

66 D. The provisions of this section shall not apply to any person sentenced pursuant to § 19.2-303.3
67 and subject to supervised probation by a local community-based probation services agency established
68 pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1.

69 E. No defendant shall have his probation reduced pursuant to this section for his participation in
70 any court-ordered treatment.

71 F. Nothing in this section shall be construed to limit the court's ability to reduce a defendant's
72 period of probation or discharge such defendant from probation under any other provision of law.

73 **2. That the provisions of the first enactment of this act shall not become effective unless reenacted**
74 **by the 2025 Session of the General Assembly.**

75 **3. That the Department of Corrections shall meet with all relevant stakeholders, including the**
76 **Virginia Probation and Parole Association and criminal justice reform organizations, and provide**
77 **to the General Assembly by November 1, 2024, a report that describes in detail (i) current**
78 **practices for community supervision as it relates to monitoring engagement and attainment in**
79 **education, employment, treatment, and other programs and making recommendations to the court**
80 **for modification of time served on probation and (ii) how such practices compare to the processes**
81 **and practices that would be established pursuant to the first enactment of this act if reenacted by**
82 **the 2025 Session of the General Assembly.**