

1994 SESSION

SENATE SUBSTITUTE

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SENATE SUBSTITUTE

HOUSE BILL NO. 1156

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on March 6, 1994)

(Patron Prior to Substitute—Delegate Albo)

A BILL to amend and reenact §§ 19.2-294.2 and 53.1-218 of the Code of Virginia, relating to reports on alien status of offenders.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-294.2 and 53.1-218 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-294.2. Procedure when aliens convicted of certain felonies; duties of probation and parole officer.

A. Any person convicted in a court of the Commonwealth of any (i) felony offense involving murder, rape, robbery, burglary, larceny, extortion, or abduction or (ii) illegal drug violation designated as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, may be referred to a probation and parole officer of such court for either investigation and a report pursuant to § 19.2-299 or for probation supervision. In either case the probation or parole officer shall inquire as to the citizenship of such person.

B. If the convicted person is determined to be an alien, it shall be the duty of the probation and parole officer to notify immediately the United States Immigration and Naturalization Service of the conviction. Notice shall be sent to the United States immigration officer in charge of the district in which the conviction occurs.

A. Whenever a person is (i) convicted in a circuit court of any felony and (ii) referred to a probation or parole officer for a report pursuant to § 19.2-299, or for probation supervision, the probation or parole officer shall inquire as to the citizenship of such person. If upon inquiry it is determined that the person may be an alien based upon his failure to produce evidence of United States citizenship, the probation or parole officer shall report this determination to the Central Criminal Records Exchange of the Department of State Police on forms provided by the Exchange.

B. The inquiry required by this section need not be made if it is apparent that a report on alien status has previously been made to the Central Criminal Records Exchange pursuant to this section.

C. It shall be the responsibility of the Central Criminal Records Exchange of the Department of State Police to review arrest reports submitted by law-enforcement agencies and reports of suspected alien-status inquiries made by probation or parole officers, and to report within sixty days of final disposition to the Immigration and Naturalization Service the identity of all convicted offenders suspected of being an alien.

§ 53.1-218. Duty of officer in charge to inquire as to citizenship; notice to federal immigration officer of commitment of alien.

Whenever any person is committed to a correctional facility, it shall be the duty of the director, sheriff or other officer in charge of such facility to inquire as to whether the person is a citizen of the United States, and if he is not, such director, sheriff or other officer shall inquire as to the person's alien status.

If it appears that the person is an alien, the director, sheriff or other officer in charge of the facility shall immediately notify the United States immigration officer in charge of the district in which the facility is located. The immigration officer shall be informed of the date of and the reasons for such alien's commitment, the length of time for which committed, the country of which he is a citizen, his age, and, if known, the date and vessel, vehicle or aircraft on which and the place at which he last entered the United States Central Criminal Records Exchange. However, notification need not be made if it is apparent that a report on alien status has previously been made to the Exchange pursuant to § 19.2-294.2.