

LD9197812

HOUSE BILL NO. 5001

Offered September 19, 1994

Prefiled September 7, 1994

A BILL to amend and reenact §§ 2.1-1.5, 2.1-20.4, 2.1-51.18, 9-6.23, as it is effective and as it will become effective, 9-6.25:1, 18.2-10, 19.2-297.1, 53.1-20, 53.1-20.1, 53.1-32.1, 53.1-145, as it is effective and as it may become effective, 53.1-187, 53.1-189 and 53.1-191 of the Code of Virginia and to amend the Code of Virginia by adding in Title 9 a chapter numbered 43, consisting of sections numbered 9-334 through 9-339, by adding sections numbered 19.2-295.2 and 19.2-298.01, by adding in Article 3 of Chapter 4 of Title 53.1 a section numbered 53.1-165.1, by adding in Article 2 of Chapter 6 of Title 53.1 a section numbered 53.1-197.1, by adding in Article 3 of Chapter 6 of Title 53.1 a section numbered 53.1-202.1 and by adding in Chapter 6 of Title 53.1 an article numbered 4, consisting of sections numbered 53.1-202.2, 53.1-202.3 and 53.1-202.4, all relating to abolition of parole and good conduct allowance; creation of the Virginia Criminal Sentencing Commission; felony criminal sentencing; earned sentence credits; discretionary sentencing guidelines; commitment of offenders; compensation of local jails; limitation of applicability of statutes; penalties.

Patrons—Forbes, Croshaw, Albo, Almand, Armstrong, Baker, Ball, Barlow, Behm, Bennett, Bloxom, Brickley, Callahan, Cantor, Clement, Cooper, Copeland, Councill, Cox, Crouch, Davies, Deeds, Dickinson, Dillard, Dudley, Fisher, Giesen, Griffith, Guest, Hamilton, Hargrove, Harris, Heilig, Howell, Ingram, Jackson, Johnson, Katzen, Keating, Kidd, Kilgore, Marshall, May, McClure, McDonnell, Miller, Mims, Moore, Morgan, Moss, Nelms, Newman, Nixon, O'Brien, Orrock, Parrish, Phillips, Plum, Purkey, Putney, Reid, Reynolds, Rhodes, Rollison, Ruff, Sherwood, Shuler, Spruill, Tata, Wagner, Wardrup, Watkins, Way and Wilkins; Senators: Earley, Goode, Quayle and Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.5, 2.1-20.4, 2.1-51.18, 9-6.23, as it is effective and as it will become effective, 9-6.25:1, 18.2-10, 19.2-297.1, 53.1-20, 53.1-20.1, 53.1-32.1, 53.1-145, as it is effective and as it may become effective, 53.1-187, 53.1-189 and 53.1-191 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 9 a chapter numbered 43, consisting of sections numbered 9-334 through 9-339, by adding sections numbered 19.2-295.2 and 19.2-298.01, by adding in Article 3 of Chapter 4 of Title 53.1 a section numbered 53.1-165.1, by adding in Article 2 of Chapter 6 of Title 53.1 a section numbered 53.1-197.1, by adding in Article 3 of Chapter 6 of Title 53.1 a section numbered 53.1-202.1, and by adding in Chapter 6 of Title 53.1 an article numbered 4, consisting of sections numbered 53.1-202.2, 53.1-202.3 and 53.1-202.4, as follows:

§ 2.1-1.5. Entities not subject to standard nomenclature.

The following entities are not subject to the provisions of § 2.1-1.2 due to the unique characteristics or enabling legislation of the entities:

Authorities

Richmond Eye and Ear Hospital Authority.
Small Business Financing Authority.
State Education Assistance Authority.
Virginia Agriculture Development Authority.
Virginia College Building Authority.
Virginia Education Loan Authority.
Virginia Housing Development Authority.
Virginia Innovative Technology Authority.
Virginia Port Authority.
Virginia Public Building Authority.
Virginia Public School Authority.
Virginia Resources Authority.
Virginia Student Assistance Authorities.

Boards

Board of Commissioners, Virginia Agriculture Development Authority.
Board of Commissioners, Virginia Port Authority.
Board of Directors, Richmond Eye and Ear Hospital Authority.
Board of Directors, Small Business Financing Authority.

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- 60 Board of Directors, Virginia Student Assistance Authorities.
- 61 Board of Directors, Virginia Innovative Technology Authority.
- 62 Board of Directors, Virginia Resources Authority.
- 63 Board of Regents, Gunston Hall Plantation.
- 64 Board of Regents, James Monroe Memorial Law Office and Library.
- 65 Board of Trustees, Family and Children's Trust Fund.
- 66 Board of Trustees, Frontier Culture Museum of Virginia.
- 67 Board of Trustees, Jamestown-Yorktown Foundation.
- 68 Board of Trustees, Miller School of Albemarle.
- 69 Board of Trustees, Rural Virginia Development Foundation.
- 70 Board of Trustees, The Science Museum of Virginia.
- 71 Board of Trustees, Virginia Museum of Fine Arts.
- 72 Board of Trustees, Virginia Museum of Natural History.
- 73 Board of Trustees, Virginia Outdoor Foundation.
- 74 (Effective July 1, 1996) Board of the Virginia Higher Education Tuition Trust Fund.
- 75 Board of Visitors, Christopher Newport University.
- 76 Board of Visitors, The College of William and Mary in Virginia.
- 77 Board of Visitors, George Mason University.
- 78 Board of Visitors, Gunston Hall Plantation.
- 79 Board of Visitors, James Madison University.
- 80 Board of Visitors, Longwood College.
- 81 Board of Visitors, Mary Washington College.
- 82 Board of Visitors to Mount Vernon.
- 83 Board of Visitors, Norfolk State University.
- 84 Board of Visitors, Old Dominion University.
- 85 Board of Visitors, Radford University.
- 86 Board of Visitors, University of Virginia.
- 87 Board of Visitors, Virginia Commonwealth University.
- 88 Board of Visitors, Virginia Military Institute.
- 89 Board of Visitors, Virginia Polytechnic Institute and State University.
- 90 Board of Visitors, Virginia State University.
- 91 Governing Board, Virginia College Building Authority.
- 92 Governing Board, Virginia Public School Authority.
- 93 Library Board, The Library of Virginia.
- 94 State Board for Community Colleges, Virginia Community College System.
- 95 Commissions
- 96 Alexandria Historical Restoration and Preservation Commission.
- 97 Chesapeake Bay Bridge and Tunnel Commission.
- 98 Hampton Roads Sanitation District Commission.
- 99 *Virginia Criminal Sentencing Commission.*
- 100 Districts
- 101 Chesapeake Bay Bridge and Tunnel District.
- 102 Hampton Roads Sanitation District.
- 103 Educational Institutions
- 104 Christopher Newport University.
- 105 College of William and Mary in Virginia.
- 106 Frontier Culture Museum of Virginia.
- 107 George Mason University.
- 108 James Madison University.
- 109 Jamestown-Yorktown Foundation.
- 110 Longwood College.
- 111 Mary Washington College.
- 112 Miller School of Albemarle.
- 113 Norfolk State University.
- 114 Old Dominion University.
- 115 Radford University.
- 116 The Science Museum of Virginia.
- 117 University of Virginia.
- 118 Virginia Commonwealth University.
- 119 Virginia Community College System.
- 120 Virginia Military Institute.
- 121 Virginia Museum of Fine Arts.

122 Virginia Polytechnic Institute and State University.
 123 The Library of Virginia.
 124 Virginia State University.
 125 Foundations
 126 Chippokes Plantation Farm Foundation.
 127 Rural Virginia Development Foundation.
 128 Virginia Conservation and Recreation Foundation.
 129 Virginia Historic Preservation Foundation.
 130 Virginia Outdoor Foundation.
 131 Museum
 132 Virginia Museum of Natural History.
 133 Plantation
 134 Gunston Hall Plantation.
 135 System
 136 Virginia Retirement System.
 137 § 2.1-20.4. Bodies receiving compensation.
 138 A. Notwithstanding any other provision of law, the following commissions, boards, etc., shall be
 139 those which receive compensation from state funds pursuant to § 2.1-20.3:
 140 Accountancy, Board for
 141 Agriculture and Consumer Services, Board of
 142 Air Pollution Control Board, State
 143 Airports Authority, Virginia
 144 Apprenticeship Council
 145 Architects, Professional Engineers, Land Surveyors and Landscape Architects, State Board for
 146 Athletic Board, Virginia
 147 Auctioneers Board
 148 Audiology and Speech-Language Pathology, Board of
 149 Aviation Board, Virginia
 150 Barbers, Board for
 151 Branch Pilots, Board for
 152 Building Code Technical Review Board, State
 153 Chesapeake Bay Local Assistance Board
 154 Child Day Care and Early Childhood Programs, Virginia Council on
 155 Coal Mining Examiners, Board of
 156 College Building Authority
 157 Commonwealth Transportation Board
 158 Conservation and Development of Public Beaches, Board on
 159 Conservation and Recreation, Board of
 160 Contractors, Board for
 161 Correctional Education, Board of
 162 Corrections, Board of
 163 Cosmetology, Board for
 164 Criminal Justice Services Board
 165 Deaf and Hard-of-Hearing, Advisory Board for the
 166 Dentistry, Board of
 167 Education, State Board of
 168 Education Loan Authority, Virginia - Board of Directors
 169 Elections, State Board of
 170 Environment, Council on the
 171 Fire Services Board, Virginia
 172 Funeral Directors and Embalmers, Board of
 173 Game and Inland Fisheries, Board of
 174 Geology, Board for
 175 Health, State Board of
 176 Health Professions, Board of
 177 Hearing Aid Specialists, Board for
 178 Higher Education, State Council of
 179 Historic Resources, Board of
 180 Housing and Community Development, Board of
 181 Information Management, Council on
 182 Marine Resources Commission

183 Medical Assistance Services, Board of
184 Medical Complaint Investigation Committee
185 Medicine, Board of
186 Mental Health, Mental Retardation and Substance Abuse Services Board, State
187 Milk Commission
188 Mineral Mining Examiners, Board of
189 Nursing, Board of
190 Nursing Home Administrators, Board of
191 Occupational Therapy, Advisory Board on
192 Oil and Gas Conservation Board, Virginia
193 Opticians, Board for
194 Optometry, Board of
195 Pesticide Control Board
196 Pharmacy, Board of
197 Physical Therapy, Advisory Board on
198 Port Authority, Board of Commissioners of the Virginia
199 Professional and Occupational Regulation, Board for
200 Professional Counselors, Board of
201 Professional Soil Scientists, Board for
202 Psychology, Board of
203 Public Defender Commission
204 Public School Authority, Virginia
205 Purchases and Supply Appeals Board
206 Real Estate Appraiser Board
207 Real Estate Board
208 Recreation Specialists, Board of
209 Rehabilitative Services, Board of
210 Respiratory Therapy, Advisory Board on
211 Safety and Health Codes Board
212 Seed Potato Board
213 Social Services, Board of
214 Social Work, Board of
215 State Health Department Sewage Handling and Disposal Appeal Review Board
216 Substance Abuse Certification Board
217 Surface Mining Review, Board of
218 Treasury Board
219 Veterans' Affairs, Board on
220 Veterinary Medicine, Board of
221 Virginia Board for Asbestos Licensing
222 *Virginia Criminal Sentencing Commission*
223 Virginia Health Planning Board
224 Virginia Manufactured Housing Board
225 Virginia Veterans Care Center Board of Trustees
226 Virginia Waste Management Board
227 Visually Handicapped, Virginia Board for the
228 Waste Management Facility Operators, Board for
229 Water Control Board, State
230 Waterworks and Wastewater Works Operators, Board for
231 Well Review Board, Virginia
232 Youth and Family Services, State Board of.
233 B. Individual members of boards, commissions, committees, councils, and other similar bodies
234 appointed at the state level and receiving compensation for their services on January 1, 1980, but who
235 will not receive compensation under the provisions of this article, shall continue to receive compensation
236 at the January 1, 1980, rate until such member's current term expires.
237 § 2.1-51.18. Agencies for which responsible.
238 The Secretary of Public Safety shall be responsible to the Governor for the following agencies:
239 Department of Alcoholic Beverage Control, Department of Corrections, Department of Youth and
240 Family Services, Department of Correctional Education, Department of Criminal Justice Services,
241 Virginia Parole Board, *Virginia Criminal Sentencing Commission*, Department of Emergency Services,
242 Department of Military Affairs, Department of State Police, Department of Fire Programs and the
243 Commonwealth's Attorneys' Services Council. The Governor may, by executive order, assign any other
244 state executive agency to the Secretary of Public Safety, or reassign any agency listed above to another

secretary.

§ 9-6.23. (Effective until July 1, 1995) Prohibition against service by legislators on boards and commissions within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards and commissions within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards and commissions engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board or commission in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; to members of the Workforce 2000 Advocacy Council, who shall be appointed as provided in § 2.1-116.18; ~~or~~ to members of the Advisory Commission on Welfare Reform who shall be appointed as provided in § 63.1-133.44; *or to members of the Virginia Criminal Sentencing Commission who shall be appointed as provided in § 9-335.*

§ 9-6.23. (Effective July 1, 1995) Prohibition against service by legislators on boards and commissions within the executive branch.

Members of the General Assembly shall be ineligible to serve on boards and commissions within the executive branch which are responsible for administering programs established by the General Assembly. Such prohibition shall not extend to boards and commissions engaged solely in policy studies or commemorative activities. If any law directs the appointment of any member of the General Assembly to a board or commission in the executive branch which is responsible for administering programs established by the General Assembly, such portion of such law shall be void, and the Governor shall appoint another person from the Commonwealth at large to fill such a position. The provisions of this section shall not apply, however, to members of the Board for Branch Pilots, who shall be appointed as provided for in § 54.1-901; to members of the Board on Veterans' Affairs, who shall be appointed as provided for in § 2.1-741; to members of the Council on Indians, who shall be appointed as provided for in § 9-138.1; to members of the Virginia Technology Council, who shall be appointed as provided for in § 9-145.51; to members of the Board of Trustees of the Southwest Virginia Higher Education Center, who shall be appointed as provided in § 23-231.3; to members of the Maternal and Child Health Council, who shall be appointed as provided for in § 9-318; to members of the Virginia Interagency Coordinating Council who shall be appointed as provided in § 2.1-750; to members of the Advisory Council on the Virginia Business-Education Partnership Program, who shall be appointed as provided in § 9-326; ~~or~~ to members of the Advisory Commission on Welfare Reform, who shall be appointed as provided in § 63.1-133.44; *or to members of the Virginia Criminal Sentencing Commission who shall be appointed as provided in § 9-335.*

§ 9-6.25:1. Advisory boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following advisory boards, commissions and councils within the executive branch:

- Advisory Board for the Department for the Deaf and Hard-of-Hearing
- Advisory Board for the Department for the Aging
- Advisory Board on Child Abuse and Neglect
- Advisory Board on Medicare and Medicaid
- Advisory Board on Occupational Therapy
- Advisory Board on Physical Therapy to the Board of Medicine
- Advisory Board on Rehabilitation Providers
- Advisory Board on Respiratory Therapy to the Board of Medicine
- Advisory Board on Teacher Education and Licensure
- Advisory Council on Revenue Estimates
- Advisory Council on the Virginia Business-Education Partnership Program
- Appomattox State Scenic River Advisory Board
- Aquaculture Advisory Board
- Art and Architectural Review Board

306 (Effective until July 1, 1995) Board for the Visually Handicapped
307 Board of Directors, Virginia Truck and Ornamentals Research Station
308 Board of Forestry
309 Board of Military Affairs
310 Board of Rehabilitative Services
311 Board of Transportation Safety
312 Board of Trustees of the Family and Children's Trust Fund
313 Board of Visitors, Gunston Hall Plantation
314 Board on Veterans' Affairs
315 Catoctin Creek State Scenic River Advisory Board
316 Cave Board
317 Chickahominy State Scenic River Advisory Board
318 Clinch Scenic River Advisory Board
319 Coal Surface Mining Reclamation Fund Advisory Board
320 Council on Indians
321 Council on the Status of Women
322 Debt Capacity Advisory Committee
323 Emergency Medical Services Advisory Board
324 Falls of the James Committee
325 Film Office Advisory Board
326 Forensic Science Advisory Board
327 Goose Creek Scenic River Advisory Board
328 Governor's Council on Alcohol and Drug Abuse Problems
329 Governor's Mined Land Reclamation Advisory Committee
330 Hemophilia Advisory Board
331 Human Services Information and Referral Advisory Council
332 Industrial Development Services Advisory Board
333 Interagency Coordinating Council on Housing for the Disabled
334 Interdepartmental Board of the State Department of Minority Business Enterprise
335 Laboratory Services Advisory Board
336 Local Advisory Board to the Blue Ridge Community College
337 Local Advisory Board to the Central Virginia Community College
338 Local Advisory Board to the Dabney S. Lancaster Community College
339 Local Advisory Board to the Danville Community College
340 Local Advisory Board to the Eastern Shore Community College
341 Local Advisory Board to the Germanna Community College
342 Local Advisory Board to the J. Sargeant Reynolds Community College
343 Local Advisory Board to the John Tyler Community College
344 Local Advisory Board to the Lord Fairfax Community College
345 Local Advisory Board to the Mountain Empire Community College
346 Local Advisory Board to the New River Community College
347 Local Advisory Board to the Northern Virginia Community College
348 Local Advisory Board to the Patrick Henry Community College
349 Local Advisory Board to the Paul D. Camp Community College
350 Local Advisory Board to the Piedmont Virginia Community College
351 Local Advisory Board to the Rappahannock Community College
352 Local Advisory Board to the Southwest Virginia Community College
353 Local Advisory Board to the Thomas Nelson Community College
354 Local Advisory Board to the Tidewater Community College
355 Local Advisory Board to the Virginia Highlands Community College
356 Local Advisory Board to the Virginia Western Community College
357 Local Advisory Board to the Wytheville Community College
358 Long-Term Care Council
359 Maternal and Child Health Council
360 Medical Advisory Board, Department of Motor Vehicles
361 Medical Board of the Virginia Retirement System
362 Migrant and Seasonal Farmworkers Board
363 Motor Vehicle Dealer's Advisory Board
364 Nottoway State Scenic River Advisory Board
365 Personnel Advisory Board
366 Plant Pollination Advisory Board
367 Private College Advisory Board

Private Enterprise Commission
 Private Security Services Advisory Board
 Psychiatric Advisory Board
 Radiation Advisory Board
 Rappahannock Scenic River Advisory Board
 Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Retirement System Review Board
 Rockfish State Scenic River Advisory Board
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 St. Mary's Scenic River Advisory Committee
 State Advisory Board on Air Pollution
 State Advisory Board for the Virginia Employment Commission
 State Building Code Technical Review Board
 State Council on Local Debt
 State Health Benefits Advisory Council
 State Insurance Advisory Board
 State Land Evaluation Advisory Council
 State Networking Users Advisory Board
 State Public Records Advisory Council
 Statewide Independent Living Council
 Statewide Rehabilitation Advisory Council
 Statewide Rehabilitation Advisory Council for the Blind
 Staunton Scenic River Advisory Committee
 Telecommunications Relay Service Advisory Board
 Tourism and Travel Services Advisory Board
 Toxic Substances Advisory Board
 Virginia Advisory Commission on Intergovernmental Relations
 Virginia Advisory Council for Adult Education and Literacy
 Virginia Coal Mine Safety Board
 Virginia Coal Research and Development Advisory Board
 Virginia Commission for the Arts
 Virginia Commission on the Bicentennial of the United States Constitution
 Virginia Council on Coordinating Prevention
Virginia Criminal Sentencing Commission
 Virginia Equal Employment Opportunity Council
 Virginia Interagency Coordinating Council
 Virginia Military Advisory Council
 Virginia Public Buildings Board
 Virginia Recycling Markets Development Council
 Virginia Technology Council
 Virginia Transplant Council
 Virginia Water Resources Research Center, Statewide Advisory Board
 Virginia Winegrowers Advisory Board.

CHAPTER 43.

VIRGINIA CRIMINAL SENTENCING COMMISSION.

§ 9-334. *Virginia Criminal Sentencing Commission created.*

There is hereby created within the executive branch the Virginia Criminal Sentencing Commission, hereinafter referred to in this chapter as the Commission.

§ 9-335. *Membership; compensation.*

A. *The Commission shall be composed of twenty-one members as follows:*

1. *Four members of the House of Delegates, to be appointed by the Speaker of the House;*

2. *Three members of the Senate, to be appointed by the Senate Committee on Privileges and Elections;*

3. *A justice of the Supreme Court of Virginia or a judge of the Court of Appeals of Virginia, to be appointed by the Chief Justice of the Supreme Court of Virginia;*

4. *Two circuit court judges, to be appointed by the Chief Justice of the Supreme Court of Virginia;*

5. *An attorney for the Commonwealth from a rural area, to be appointed by the Governor;*

6. *An attorney for the Commonwealth from a metropolitan area, to be appointed by the Governor;*

429 7. A sheriff, to be appointed by the Governor;
430 8. A chief of police, to be appointed by the Governor;
431 9. Four citizens of the Commonwealth, at least three of whom have been victims of crime, to be
432 appointed by the Governor;
433 10. The Attorney General or his designee;
434 11. The Secretary of Public Safety or his designee; and
435 12. A Chairman of the Commission, appointed by the Governor subject to confirmation by the
436 General Assembly.

437 B. Appointments to the Commission shall be for terms of three years. Members shall not be eligible
438 to serve more than two consecutive full terms, except the Attorney General and the Secretary of Public
439 Safety. All initial appointments to the Commission shall be made at the earliest possible time so that the
440 Commission may begin its work immediately after the effective date of this chapter.

441 C. Notwithstanding the provisions of § 2.1-20.3, members of the Commission shall receive
442 compensation as provided in § 14.1-18 and shall be paid their necessary expenses incurred in the
443 performance of their duties.

444 § 9-336. Powers and duties.
445 The Commission shall:

446 1. Develop, maintain and modify as may be deemed necessary, a proposed system of statewide
447 discretionary sentencing guidelines for use in all felony cases which will take into account historical
448 data concerning time actually served for various felony offenses committed prior to January 1, 1995,
449 and sentences imposed for various felony offenses committed on or after January 1, 1995, and which
450 will reflect appropriate sentencing recommendations for all felony offenders;

451 2. Prepare, periodically update, and distribute sentencing worksheets for the use of sentencing courts
452 which, when used, will produce a recommended sentencing range for a felony offense in accordance
453 with the discretionary sentencing guidelines established pursuant to subdivision 1;

454 3. Prepare, periodically update, and distribute a form for the use of sentencing courts which will
455 assist such courts in recording the reason or reasons for any sentence imposed in a felony case which is
456 greater or less than the sentence recommended by the discretionary sentencing guidelines;

457 4. Monitor sentencing practices in felony cases throughout the Commonwealth, including the use of
458 and compliance with the discretionary sentencing guidelines, and maintain a database containing the
459 information obtained through the monitoring process;

460 5. Monitor felony sentence lengths, crime trends, correctional facility population trends and
461 correctional resources and make recommendations regarding projected correctional facilities capacity
462 requirements and related correctional resource needs;

463 6. Study felony statutes in the context of judge- and jury-sentencing patterns as they evolve after
464 January 1, 1995, and make recommendations for the revision of general criminal offense statutes to
465 provide more specific offense definitions and more narrowly prescribed ranges of punishment;

466 7. Report upon its work and recommendations annually on or before December 1 to the General
467 Assembly, the Governor and the Chief Justice of the Supreme Court of Virginia; and

468 8. Perform such other functions as may be otherwise required by law or as may be necessary to
469 carry out the provisions of this chapter.

470 § 9-337. Meetings; staff support.

471 A. Regular meetings of the Commission shall be held on a quarterly basis and at such other times as
472 the Chairman may determine or upon the call of at least five members of the Commission. Eleven
473 members of the Commission shall constitute a quorum.

474 B. Staff support for the Commission shall be provided by the Criminal Justice Research Center with
475 assistance from the following agencies: the Department of Corrections, the Virginia Parole Board, the
476 Department of Planning and Budget, the Department of Criminal Justice Services, the Executive
477 Secretary of the Supreme Court of Virginia, and the staffs of the Senate Finance Committee and the
478 House of Delegates Appropriations Committee.

479 § 9-338. Adoption of initial discretionary sentencing guideline midpoints.

480 A. As used in this chapter, "midpoint" means, for each felony offense, the average (mean) term of
481 confinement upon a conviction for that felony offense as recommended in the discretionary sentencing
482 guidelines.

483 B. At its first meeting, to be held no later than January 31, 1995, the Commission shall adopt an
484 initial set of discretionary felony sentencing guidelines. The midpoint of the initial recommended
485 sentencing range for each felony offense shall be determined by computing the average (mean) time
486 served upon a conviction for that offense during the base period of calendar years 1988 through 1992,
487 increased by 13.4 percent, and subject to the following additional enhancements:

488 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree
489 murder, voluntary manslaughter, forcible rape, forcible sodomy, aggravated sexual battery, robbery
490 through use of a firearm, aggravated malicious wounding, malicious wounding, and burglary and its

related offenses as defined in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2, shall be further increased by (i) 100 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense with a maximum punishment of less than forty years, or (iii) 700 percent in cases in which the defendant has previously been convicted of a violent felony offense with a maximum punishment of forty years or more, except that the recommended sentence for a defendant convicted of first degree murder who has a criminal history as described in this clause shall be imprisonment for life;

2. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving or distributing, or possessing with the intent to manufacture, sell, give or distribute ten grams or more of a Schedule I or II controlled substance shall be increased by (i) 50 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300 percent in cases in which the defendant has previously been convicted of a violent felony offense with a maximum punishment of less than forty years, or (iii) 700 percent in cases in which the defendant has previously been convicted of a violent felony offense with a maximum punishment of forty years or more; and

3. The midpoint of the initial recommended sentencing range for felony offenses not specified in subdivision 1 or 2 shall be increased by 300 percent in cases in which the defendant has a criminal history as described in clause (ii) of subdivision 1 and by 500 percent in cases in which the defendant has a criminal history as described in clause (iii) of subdivision 1.

C. For purposes of this section, previous convictions shall include prior adult convictions and juvenile convictions and adjudications of delinquency under the laws of any state, the District of Columbia, the United States or its territories. Violent felony offenses shall include any violation of §§ 18.2-22, 18.2-25, 18.2-26, 18.2-31, 18.2-32, 18.2-33, 18.2-35, 18.2-36 or 18.2-41; any felony violation of Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2; any violation of §§ 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-52, 18.2-53, 18.2-54.1, 18.2-54.2, § 18.2-55, or any felony violation of § 18.2-57.2; any violation of § 18.2-58.1; any felony violation of Article 6 (§ 18.2-59 et seq.) of Chapter 4 of Title 18.2; any violation of §§ 18.2-61, 18.2-64.1, 18.2-67.1, 18.2-67.2, 18.2-67.2:1, 18.2-67.3, or any felony violation of §§ 18.2-63 or 18.2-67.5; any violation of subsection A of § 18.2-77; any Class 3 felony violation of § 18.2-79 or § 18.2-80; any violation of Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2; any grand larceny from the person in violation of § 18.2-95; any felony violation of § 18.2-152.7; any violation of § 18.2-154; any Class 2 or 3 felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any violation of § 18.2-289; any violation of subsection A of § 18.2-300; any violation of §§ 18.2-355, 18.2-356, 18.2-357, 18.2-358, or 18.2-361; any violation of §§ 18.2-362, 18.2-367, 18.2-368, 18.2-370, 18.2-370.1, or 18.2-371.1; any violation of subsection B of § 18.2-366; any felony violation of § 18.2-369; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1; any second or subsequent offense under § 18.2-379; any felony violation of § 18.2-405 or § 18.2-406; any violation of §§ 18.2-408, 18.2-413 or § 18.2-414; any felony violation of § 18.2-460 or § 18.2-477.1; any violation of §§ 18.2-477, 18.2-478 or § 18.2-480; any felony violation of § 29.1-740; or any felony violation as described in § 46.2-900; and any substantially similar offense under the laws of any state, the District of Columbia, the United States or its territories.

§ 9-339. Sentencing guidelines modifications; legislative review; effective date.

Unless otherwise provided by law, any modification to a discretionary sentencing guideline midpoint proposed by the Commission shall be contained in the annual report required under § 9-336 and shall become effective on the first day of the next following July.

§ 18.2-10. Punishment for conviction of felony.

The authorized punishments for conviction of a felony are:

(a) For Class 1 felonies, death, or imprisonment for life and, subject to subdivision (g), a fine of not more than \$100,000.

(b) For Class 2 felonies, imprisonment for life or for any term not less than twenty years and, subject to subdivision (g), a fine of not more than \$100,000.

(c) For Class 3 felonies, a term of imprisonment of not less than five years nor more than twenty years and, subject to subdivision (g), a fine of not more than \$100,000.

(d) For Class 4 felonies, a term of imprisonment of not less than two years nor more than ten years and, subject to subdivision (g), a fine of not more than \$100,000.

(e) For Class 5 felonies, a term of imprisonment of not less than one year nor more than ten years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(f) For Class 6 felonies, a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$2,500, either or both.

(g) Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a

552 sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a
553 fine, or imprisonment only.

554 *For any felony offense committed on or after January 1, 1995, the court is authorized to impose an*
555 *additional term of not less than six months nor more than three years, which shall be suspended*
556 *conditioned upon successful completion of a period of post-release supervision pursuant to § 19.2-295.2*
557 *and compliance with such other terms as the sentencing court may require; however, such additional*
558 *term may only be imposed when the sentence includes an active term of incarceration in a state or local*
559 *correctional facility.*

560 § 19.2-295.2. *Post-release supervision of felons sentenced for offenses committed on and after*
561 *January 1, 1995.*

562 A. *At the time the court fixes sentence upon a conviction for any felony offense committed on or after*
563 *January 1, 1995, the court shall, in addition to any other punishment imposed if such other punishment*
564 *includes an active term of incarceration in a state or local correctional facility, impose an additional*
565 *term of not less than six months nor more than three years, as the court may determine. Such additional*
566 *term shall be suspended and the releasee placed under post-release supervision upon release from the*
567 *active term of incarceration. The period of supervision shall be established by the court; however, such*
568 *period shall not be less than six months nor more than three years.*

569 B. *The period of post-release supervision shall be conducted in the same manner as a like period of*
570 *supervised probation, including a requirement that the releasee shall abide by such terms and conditions*
571 *as the court may establish. Failure to successfully abide by such terms and conditions shall be grounds*
572 *to terminate the period of post-release supervision and recommit the releasee to the correctional facility*
573 *from which he was previously released. Procedures for any such termination and recommitment shall be*
574 *conducted in the same manner as procedures for the revocation of probation and imposition of a*
575 *suspended sentence.*

576 C. *Post-release supervision programs shall be operated through the probation and parole districts*
577 *established pursuant to § 53.1-141.*

578 D. *Periods of post-release supervision imposed pursuant to this section upon more than one felony*
579 *conviction may be ordered to run concurrently; however, any person released from incarceration after*
580 *serving a sentence imposed upon a conviction for a felony offense committed on or after January 1,*
581 *1995, shall be subject to at least one court-ordered period of post-release supervision.*

582 E. *Nothing in this section shall be construed to prohibit the court from exercising the authority*
583 *granted pursuant to § 19.2-303.*

584 § 19.2-297.1. Sentence of person twice previously convicted of certain violent felonies.

585 A. Any person convicted of two or more separate acts of violence when such offenses were not part
586 of a common act, transaction or scheme, and who has been at liberty as defined in 53.1-151 between
587 each conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life
588 imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or
589 found by the jury or judge before whom he is tried, that he has been previously convicted of two or
590 more such acts of violence. For the purposes of this section, "act of violence" means (i) any one of the
591 following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2:

592 a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);

593 b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);

594 c. Any kidnapping or abduction felony under Article 3

595 (§ 18.2-47 et seq.);

596 d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);

597 e. Robbery under § 18.2-58 and carjacking under § 18.2-58.1; or

598 f. Any criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.);

599 (ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii)
600 violations as a principal in the second degree or accessory before the fact of the provisions enumerated
601 in clause (i) of this section.

602 B. Prior convictions shall include convictions under the laws of any state or of the United States for
603 any offense substantially similar to those listed under "act of violence" if such offense would be a
604 felony if committed in the Commonwealth.

605 The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its
606 intention to seek punishment pursuant to this section.

607 C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for parole
608 and shall not be eligible for any good conduct allowance or any earned sentence credits under Chapter
609 6 (§ 53.1-186 et seq.) of Title 53.1. However, any person subject to the provisions of this section who
610 has reached the age of sixty-five or older and who has served at least five years of the sentence imposed
611 may petition the Parole Board for conditional release. The Parole Board shall promulgate regulations to
612 implement the provisions of this subsection.

613 § 19.2-298.01. *Use of discretionary sentencing guidelines.*

A. In all felony cases, no sentence shall be imposed upon a conviction until the court has (i) had presented to it the appropriate discretionary sentencing guidelines worksheets and (ii) reviewed and maturely considered the suitability of the applicable discretionary sentencing guidelines established pursuant to Chapter 43 (§ 9-334 et seq.) of Title 9. Before pronouncing sentence, the court shall cause the record of the case to reflect that such review and consideration has been accomplished.

B. In any felony case in which the court imposes a sentence which is either greater or less than that contemplated by the discretionary sentencing guidelines, the court shall file with the record of the case a written explanation of such departure.

C. In felony cases tried by a jury and in felony cases tried by the court without a jury upon a plea of not guilty, the court shall direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets. In felony cases tried upon a plea of guilty, including cases which are the subject of a plea agreement, the court may direct a probation officer of such court to prepare the discretionary sentencing guidelines worksheets, or, with the concurrence of the accused, the court and the attorney for the Commonwealth, the worksheets may be prepared by the attorney for the Commonwealth.

D. Except as provided in subsection E, discretionary sentencing guidelines worksheets and any written departure explanation prepared pursuant to this section shall be subject to the same requirements of distribution, confidentiality and filing as presentence investigation reports prepared pursuant to subsection A of § 19.2-299.

E. Following the entry of a final order of conviction and sentence in a felony case, the clerk of the circuit court in which the case was tried shall cause a copy of such order or orders, a copy of the discretionary sentencing guidelines worksheets prepared in the case, and a copy of any departure explanation prepared pursuant to subsection D to be forwarded to the Virginia Criminal Sentencing Commission. As may be convenient, the clerk may elect to hold such documents and forward them at a later time when he has accumulated documents from several cases; however, no such documents may be held by the clerk for a period of time in excess of three months.

F. The failure to follow any or all of the provisions of this section or the failure to follow any or all of the provisions of this section in the prescribed manner shall not be reviewable on appeal.

§ 53.1-20. Commitment of convicted persons to custody of Director.

A. Beginning July 1, 1996, every person convicted of a felony and sentenced to the Department for a total period of more than ~~two~~ years six months shall be committed by the court to the custody of the Director of the Department. The Director shall receive all such persons into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court.

B. Until July 1, 1996, persons convicted of felonies and sentenced to the Department shall be committed to the custody of the Department and received by the Director into the state corrections system within sixty days of his receipt of the complete final order from the clerk of the committing court as follows:

1. From July 1, 1991, through June 30, 1992, all persons sentenced for a total period of more than six years.

2. From July 1, 1992, through June 30, 1993, all persons sentenced for a total period of more than five years.

3. From July 1, 1993, through June 30, 1994, all persons sentenced for a total period of more than four years.

4. From July 1, 1994, through June 30, 1996, all persons sentenced for a total period of more than three years for a felony offense committed before January 1, 1995, and all persons sentenced for a total period of more than one year for a felony offense committed on or after January 1, 1995.

5. From July 1, 1996, and thereafter, all persons sentenced for a total period of more than ~~two~~ years six months.

C. If the Governor finds that the number of prisoners in state facilities poses a threat to public safety, it shall be within the discretion of the Director to determine the priority for receiving prisoners into the state corrections system from local correctional facilities.

D. All felons sentenced to a period of incarceration and not placed in an adult state correctional facility pursuant to this section shall serve their sentences in local correctional facilities which shall not include a secure facility or detention home or local juvenile detention homes as defined in § 16.1-228.

E. Felons committed to the custody of the Department for a new felony offense shall be received by the Director into the state corrections system in accordance with the provisions of this section without any delay for resolution of (i) issues of alleged parole violations set for hearing before the Parole Board or (ii) any other pending parole-related administrative matter.

§ 53.1-20.1. Compensation of local jails for cost of incarceration.

Beginning July 1, 1996, if the Director is unable to accommodate in a state correctional facility any convicted state felon who is sentenced to a total period of more than ~~two~~ years six months in a state

correctional facility, the Department of Corrections shall compensate local jails for the cost of incarceration beginning sixty days after the date of sentencing of such felon as provided for in the general appropriations act. Between July 1, 1991, and July 1, 1996, the Department shall compensate local jails, as provided for in the appropriations act, (i) for the cost of incarceration, on and after the date of sentencing, of any felon sentenced to the Department *for a felony committed before January 1, 1995*, whose sentence totals more than two years and whose transfer to a state correctional facility is not yet required pursuant to § 53.1-20 ~~and~~, (ii) *for the cost of incarceration, on and after the date of sentencing, of any felon sentenced to the Department for a felony committed on or after January 1, 1995, whose sentence totals more than six months and whose transfer to a state correctional facility is not yet required pursuant to § 53.1-20*, (iii) for the cost of incarceration of any felon sentenced to the Department *for a felony committed before January 1, 1995*, whose sentence totals more than two years and whose transfer to a state correctional facility is required pursuant to § 53.1-20 and who remains in the local jail for longer than sixty days after the Director's receipt of the complete final order sentencing such felon *and (iv) for the cost of incarceration of any felon sentenced to the Department for a felony committed on or after January 1, 1995, whose sentence totals more than six months and whose transfer to a state correctional facility is required pursuant to § 53.1-20 and who remains in the local jail for longer than sixty days after the Director's receipt of the complete final order sentencing such felon.*

§ 53.1-32.1. Classification system; program assignments; mandatory participation.

A. The Director shall maintain a system of classification which (i) evaluates all prisoners according to background, aptitude, education, and risk and (ii) based on an assessment of needs, determines appropriate program assignments including vocational and technical training, work activities and employment, academic activities which at a minimum meet the requirements of § 22.1-344.1, counseling, alcohol and substance abuse treatment, and such related activities as may be necessary to assist prisoners in the successful transition to free society and gainful employment.

B. The Director shall, subject to the availability of resources and sufficient program assignments, place prisoners in appropriate full-time program assignments or a combination thereof to satisfy the objectives of a treatment plan based on an assessment and evaluation of each prisoner's needs. Compliance with specified program requirements and attainment of specific treatment goals shall be required as a condition of placement and continuation in such program assignments. The Director may suspend programs in the event of an institutional emergency.

C. For the purposes of implementing the requirements of subsection B, prisoners shall be required to participate in such programs according to the following schedule:

1. From July 1, 1994, through June 30, 1995, an average of twenty-four hours per week.
2. From July 1, 1995, through June 30, 1996, an average of twenty-eight hours per week.
3. From July 1, 1996, through June 30, 1997, an average of thirty hours per week.
4. From July 1, 1997, through June 30, 1998, an average of thirty-six hours per week.
5. From July 1, 1998, and thereafter, an average of forty hours per week.

D. Notwithstanding any other provision of law, prisoners refusing to accept a program assignment shall not be eligible for good conduct allowances *or earned sentence credits* authorized pursuant to Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. Such refusal shall also constitute a violation of the rules authorized pursuant to § 53.1-25 and the Director shall prescribe appropriate disciplinary action.

E. The Director shall maintain a master program listing, by facility and program location, of all available permanent and temporary positions. The Director may, consistent with § 53.1-43 and subject to the approval of the Board, establish a system of pay incentives for such assignments based upon difficulty and level of effort required.

F. Inmates employed pursuant to Article 2 (§ 53.1-32 et. seq.) of Chapter 2 of this title shall not be deemed employees of the Commonwealth of Virginia or its agencies and shall be ineligible for benefits under Chapter 10 (§ 2.1-110 et seq.) of Title 2.1, Chapter 6 (§ 60.2-600 et seq.) of Title 60.2, Chapter 5 (§ 65.2-500 et seq.) of Title 65.2 or any other provisions of the Code pertaining to the rights of state employees.

§ 53.1-145. (For effective date - See notes) Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation *or post-release supervision pursuant to § 19.2-295.2*, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation *or post-release supervision* and instruct him therein;

3. Supervise and assist all persons within his territory released on parole, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program

which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, *post-release supervision pursuant to § 19.2-295.2* or parole, any probationer, *person subject to post-release supervision* or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was appointed;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, *person subject to post-release supervision pursuant to § 19.2-295.2* or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board; and

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon the certification of appropriate training and specific authorization by a judge of the circuit court to which the officer is assigned.

Nothing in this article shall require probation and parole officers to investigate or supervise cases before juvenile and domestic relations district courts.

§ 53.1-145. (Delayed effective date - See notes) Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation *or post-release supervision pursuant to § 19.2-295.2*, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation *or post-release supervision* and instruct him therein;

3. Supervise and assist all persons within his territory released on parole, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, *post-release supervision pursuant to § 19.2-295.2* or parole, any probationer, *person subject to post-release supervision* or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was appointed;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, *person subject to post-release supervision pursuant to § 19.2-295.2* or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board; and

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board and upon certification of appropriate training and specific authorization by a judge of the circuit court to which the officer is assigned.

Nothing in this article shall require probation and parole officers to investigate or supervise cases before family courts.

§ 53.1-165.1. *Limitation on the application of parole statutes.*

The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January 1, 1995. Any person sentenced to a term of imprisonment for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense.

798 § 53.1-187. Credit for time spent in confinement while awaiting trial.

799 Any person who is sentenced to a term of confinement in a correctional facility shall have deducted
800 from any such term all time actually spent by the person in a state hospital for examination purposes or
801 treatment prior to trial, in a state or local correctional facility awaiting trial or pending an appeal, or in a
802 juvenile detention facility awaiting trial for an offense for which, upon conviction, such juvenile is
803 sentenced to an adult correctional facility. When entering the final order in any such case, the court shall
804 provide that the person so convicted be given credit for the time so spent.

805 In no case shall a person be allowed credit for time not actually spent in confinement or in detention.
806 In no case is a person on bail to be regarded as in confinement for the purposes of this statute. No such
807 credit shall be given to any person who escapes from a state or local correctional facility or is absent
808 without leave from a juvenile detention facility.

809 Any person sentenced to confinement in a state correctional facility, in whose case the final order
810 entered by the court in which he was convicted fails to provide for the credit authorized by this section,
811 shall nevertheless receive credit for the time so spent in a state correctional facility. Such allowance of
812 credit shall be in addition to the good conduct allowance provided for in Articles 2 (§ 53.1-192 et seq.)
813 and 3 (§ 53.1-198 et seq.) of this chapter *or the earned sentence credits provided for in Article 4*
814 *(§ 53.1-202.2 et seq.) of this chapter.*

815 § 53.1-189. Forfeiture and restoration of good conduct allowance and earned sentence credits.

816 A. Except for credits allowed under § 53.1-191, all or any part of a person's accrued good conduct
817 allowance *and earned sentence credits* earned after admission to a state correctional facility on any
818 sentence or combination of sentences being served may be forfeited in accordance with rules and
819 regulations of the Board for violation of any written prison rules or regulations.

820 B. If a prisoner is convicted of escape or attempted escape from any correctional facility, such person
821 shall, upon being returned to custody, forfeit all accrued good conduct allowance *and all earned*
822 *sentence credits* on any sentence or combination of sentences being served, except for credits allowed
823 under § 53.1-191.

824 C. No good conduct allowance *or earned sentence credit* which has been forfeited shall be restored
825 except by the Director, whose authority shall not be delegated.

826 § 53.1-191. Credits allowed in cases of injuries to or extraordinary services performed by prisoners;
827 nonforfeiture of credits hereunder.

828 The Board, with the consent of the Governor, may allow to any prisoner confined in a state
829 correctional facility a credit toward his term of confinement if he (i) renders assistance in preventing the
830 escape of another prisoner or in the apprehension of an escaped prisoner; (ii) gives a blood donation to
831 another prisoner; (iii) voluntarily or at the instance of a prison official renders other extraordinary
832 services; or (iv) suffers bodily injury while in the prison system. The Board shall determine the amount
833 of any such credit for each such service or injury. In unusual circumstances a prisoner may receive
834 credit for donating blood, under regulations prescribed by the Board, to blood banks licensed by or
835 subject to regulations of the State Board of Health.

836 Except as provided hereafter, any credit allowed under the provisions of this section shall be applied
837 as provided in § 53.1-199. A prisoner who has been sentenced to a term of life imprisonment or to two
838 or more life sentences shall be eligible for credits allowed under the provisions of this section. One-half
839 of such credit shall be applied to reduce the period of time such prisoner shall serve before being
840 eligible for parole.

841 Credits allowed under the provisions of this section may not be forfeited under § 53.1-189. *Credits*
842 *shall not be allowed under the provisions of this section to apply toward a term of confinement imposed*
843 *upon a conviction of a felony offense committed on or after January 1, 1995.*

844 § 53.1-197.1. *Limitation upon applicability of this article.*

845 *The provisions of this article shall not apply to any sentence imposed upon a conviction of a felony*
846 *offense committed on or after January 1, 1995.*

847 § 53.1-202.1. *Limitation upon applicability of this article.*

848 *The provisions of this article shall not apply to any sentence imposed upon a conviction of a felony*
849 *offense committed on or after January 1, 1995.*

850 Article 4.

851 *Earned Sentence Credits for Persons*

852 *Committed Upon Felony Offenses Committed On or After January 1, 1995.*

853 § 53.1-202.2. *Eligibility for earned sentence credits.*

854 *Every person who is convicted of a felony offense committed on or after January 1, 1995, and who*
855 *is sentenced to serve a term of imprisonment in a state or local correctional facility shall be eligible to*
856 *earn sentence credits in the manner prescribed by this article. Such eligibility shall commence upon the*
857 *person's incarceration in any correctional facility following entry of a final order of conviction by the*
858 *committing court. As used in this chapter, the terms "sentence credit" and "earned sentence credit" shall*
859 *mean deductions from a person's term of confinement earned through adherence to rules prescribed*

860 pursuant to § 53.1-25, through program participation as required by §§ 53.1-32.1 and 53.1-202.3, and
861 by meeting such other requirements as may be established by law or regulation. One earned sentence
862 credit shall equal a deduction of one day from a person's term of imprisonment.

863 § 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.

864 A maximum of four and one-half sentence credits may be earned for each calendar month served.
865 The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation
866 with programs to which a person is assigned pursuant to § 53.1-32.1. Notwithstanding any other
867 provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time
868 a person must serve before becoming eligible for parole upon any sentence.

869 § 53.1-202.4. Board of Corrections to establish certain rules, criteria, etc.

870 The Board shall:

871 1. Establish the criteria upon which a person shall be deemed to have earned sentence credits;

872 2. Establish the bases upon which earned sentence credits may be taken;

873 3. Establish the number of earned sentence credits which will be taken for violations of various (i)
874 institutional rules, (ii) program participation requirements or (iii) other requirements for the retention of
875 sentence credits; and

876 4. Establish such additional requirements for the earning of sentence credits as may be deemed
877 advisable and as are consistent with the purposes of this article.

878 **2. That the provisions of this act may result in a net increase in periods of imprisonment in state**
879 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
880 **is \$25,675,440**