

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-251 of the Code of Virginia, relating to persons charged with first*  
3 *drug offense.*

4  
5 Approved

[H 662]

6 **Be it enacted by the General Assembly of Virginia:**

7 **1. That § 18.2-251 of the Code of Virginia is amended and reenacted as follows:**

8 § 18.2-251. Persons charged with first offense may be placed on probation; conditions; screening,  
9 evaluation and education programs; drug tests; costs and fees; violations; discharge.

10 Whenever any person who has not previously been convicted of any offense under this article or  
11 under any statute of the United States or of any state relating to narcotic drugs, marijuana, or stimulant,  
12 depressant, or hallucinogenic drugs, or has not previously had a proceeding against him for violation of  
13 such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to  
14 possession of a controlled substance under § 18.2-250 or to possession of marijuana under § 18.2-250.1,  
15 the court, upon such plea if the facts found by the court would justify a finding of guilt, without  
16 entering a judgment of guilt and with the consent of the accused, may defer further proceedings and  
17 place him on probation upon terms and conditions.

18 As a term or condition, the court shall require the accused to be evaluated and enter a treatment  
19 and/or education program, if available, such as, in the opinion of the court, may be best suited to the  
20 needs of the accused. This program may be located in the judicial district in which the charge is brought  
21 or in any other judicial district as the court may provide. The services shall be provided by a program  
22 certified or licensed by the Department of Mental Health, Mental Retardation and Substance Abuse  
23 Services *or by an ASAP program certified by the Commission on VASAP*. The court shall require the  
24 person entering such program under the provisions of this section to pay all or part of the costs of the  
25 program, including the costs of the screening, evaluation, testing, and treatment, based upon the  
26 accused's ability to pay unless the person is determined by the court to be indigent.

27 As a condition of probation, the court shall require the accused to remain drug free during the period  
28 of probation and submit to such tests during that period as may be necessary and appropriate to  
29 determine if the accused is drug free. Such testing may be conducted by personnel of any program to  
30 which the person is referred or by the supervising agency.

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

33 Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as  
34 otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person  
35 and dismiss the proceedings against him. Discharge and dismissal under this section shall be without  
36 adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent  
37 proceedings.

38 Notwithstanding any other provision of this section, whenever a court places an individual on  
39 probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction  
40 for purposes of §§ 18.2-259.1 and 46.2-390.1, and the driver's license forfeiture provisions of those  
41 sections shall be imposed. The provisions of this paragraph shall not be applicable to any offense for  
42 which a juvenile has had his license suspended or denied pursuant to § 16.1-278.9 for the same offense.

ENROLLED

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