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HOUSE BILL NO. 1893

Offered January 15, 1999

A *BILL to amend and reenact §§ 19.2-303.3, 53.1-181, 53.1-182, and 53.1-182.1 of the Code of Virginia and to repeal § 53.1-184.2 of the Code of Virginia, relating to the Comprehensive Community Corrections Act for Local-Responsible Offenders.*

Patron—Sherwood

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-303.3, 53.1-181, 53.1-182, and 53.1-182.1 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-303.3. Sentence to community-based corrections program or facility; eligibility for participation; evaluation; sentencing; withdrawal or removal from program; payment for costs.

A. A defendant who is (i) convicted on or after July 1, 1995, of a misdemeanor or a nonviolent felony as defined in § 19.2-316.1 for which the court may impose a jail sentence, (ii) no younger than eighteen years of age or is considered an adult at the time of conviction, and (iii) who meets other eligibility criteria pursuant to this section and § 53.1-180 may be sentenced to a community-based corrections program established pursuant to § 53.1-181 by the local governing bodies within that judicial district or circuit.

B. Prior to or at the time of sentencing, the court may order the defendant placed in the community-based corrections program pursuant to § 53.1-181 upon a determination by the court that the defendant may benefit from the program and is capable of returning to society as a productive citizen with a reasonable amount of supervision and intervention including program components set forth in § 53.1-182.1. All or part of any sentence imposed may be suspended conditioned upon the defendant's completion of any community-based corrections program established pursuant to § 53.1-181. The court may impose such other terms and conditions of supervision as it deems appropriate.

C. Upon the defendant's removal from the program by the Comprehensive Community Corrections Act for Local Responsible Offenders Program (§ 53.1-180 et seq.) for (i) intractable behavior, or (ii) refusal to comply with the terms and conditions imposed by the court, the defendant shall be brought before the court for a hearing. Upon finding that the defendant exhibited intractable behavior as defined herein, or refused to comply with terms and conditions imposed, the court may revoke all or part of the suspended sentence and supervision, and commit the defendant to serve whatever sentence was originally imposed or impose such other terms and conditions of supervision as it deems appropriate. "Intractable behavior" is that behavior which, in the determination of the court indicates a defendant's unwillingness or inability to conform his behavior to that which is necessary for successful completion of the program or that the defendant's behavior is so disruptive as to threaten the successful completion of the program by other participants.

D. The court may order a defendant sentenced pursuant to this section to pay an amount to defray the cost of the services received *in accordance with subsection D of § 53.1-185.2.*

§ 53.1-181. Establishment of program; use of supervised probation not to be decreased.

To facilitate local involvement and flexibility in responding to the problem of crime in their communities and to permit locally designed programs which will fit its needs, any city, county or combination thereof may, and any city, county or combination thereof which is required by § 53.1-82.1 to file a community-based corrections plan shall, establish a system of community-based services pursuant to this article. This system is to provide alternative programs for those offenders who are convicted and sentenced by or receive services through a court and who are considered suitable candidates for programs which require less than incarceration in a local correctional facility. Such programs and services may be provided by qualified public agencies or private agencies pursuant to appropriate contracts.

§ 53.1-182. Board to prescribe standards; biennial plan.

The Board of Criminal Justice Services shall approve standards as prescribed by the Department of Criminal Justice Services for the development, implementation, operation and evaluation of programs, services and facilities authorized by this article. Any city, county or combination thereof which establishes programs and provides services pursuant to this article shall submit a biennial plan to the Department of Criminal Justice Services for review and approval.

§ 53.1-182.1. Mandated services; optional programs.

Any city, county or combination thereof which elects or is required to establish a community-based

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60 corrections program pursuant to this article shall provide to the judicial system the following programs
61 and services: community service; home incarceration with or without electronic monitoring; electronic
62 monitoring; probation supervision; and substance abuse assessment, testing and treatment. Additional
63 programs, ~~facilities~~ and services, including, but not limited to, ~~jail farms, pre-release facilities, work~~
64 ~~release facilities,~~ *local day reporting center programs and services, local halfway house programs and*
65 *services for the temporary care of adults placed on probation,* and public inebriate diversion programs,
66 may be established by the city, county or combination thereof.
67 **2. That § 53.1-184.2 of the Code of Virginia is repealed.**