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SENATE BILL NO. 1192

Offered January 10, 2007

Prefiled January 10, 2007

A *BILL to amend and reenact §§ 19.2-152.4:3 and 19.2-164 of the Code of Virginia, relating to interpreters for non-English-speaking persons.*

Patron—Reynolds

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-152.4:3 and 19.2-164 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-152.4:3. Duties and responsibilities of local pretrial services officers.

A. Each local pretrial services officer, for the jurisdictions served, shall:

1. Investigate and interview defendants arrested on state and local warrants and who are detained in jails located in jurisdictions served by the program while awaiting a hearing before any court that is considering or reconsidering bail, at initial appearance, advisement or arraignment, or at other subsequent hearings;

2. Present a pretrial investigation report with recommendations to assist courts in discharging their duties related to granting or reconsidering bail;

3. Supervise and assist all defendants residing within the jurisdictions served and placed on pretrial supervision by any judicial officer within the jurisdictions to ensure compliance with the terms and conditions of bail;

4. Conduct random drug and alcohol tests on any defendant under supervision for whom a judicial officer has ordered testing or who has been required to refrain from excessive use of alcohol or use of any illegal drug or controlled substance or other defendant-specific condition of bail related to alcohol or substance abuse;

5. Seek a *capias* from any judicial officer pursuant to § 19.2-152.4:1 for any defendant placed under supervision or the custody of the agency who fails to comply with the conditions of bail or supervision, when continued liberty or noncompliance presents a risk of flight, a risk to public safety or risk to the defendant;

6. Seek an order to show cause why the defendant should not be required to appear before the court in those cases requiring a subsequent hearing before the court;

7. Provide defendant-based information to assist any law-enforcement officer with the return to custody of defendants placed on supervision for which a *capias* has been sought; and

8. Keep such records and make such reports as required by the Commonwealth of Virginia Department of Criminal Justice Services.

B. Each local pretrial services officer, for the jurisdictions served, may provide the following optional services, as appropriate and when available resources permit:

1. Conduct, subject to court approval, drug and alcohol screenings, or tests at investigation pursuant to subsection B of § 19.2-123 or following release to supervision, and conduct or facilitate the preparation of screenings or assessments or both pursuant to state approved protocols;

2. Facilitate placement of defendants in a substance abuse education or treatment program or other education or treatment service when ordered as a condition of bail;

3. Sign for the custody of any defendant investigated by a pretrial services officer, and released by a court to pretrial supervision as the sole term and condition of bail or when combined with an unsecured bond;

4. Provide defendant information and investigation services for those who are detained in jails located in jurisdictions served by the program and are awaiting an initial bail hearing before a local magistrate;

5. Supervise defendants placed by any judicial officer on home electronic monitoring as a condition of bail and supervision;

6. Prepare, for defendants investigated, the financial statement-eligibility determination form for indigent defense services; and

7. Subject to approved procedures and if so requested by the court, coordinate for defendants investigated, services for court-appointed counsel and for interpreters for ~~foreign-language speaking and~~ hearing-impaired defendants.

§ 19.2-164. Interpreters for non-English-speaking persons.

INTRODUCED

SB1192

59 In any criminal case in which a non-English-speaking person is the accused, an interpreter for the
60 non-English-speaking person shall be appointed *by the court in which the case is to be heard*. In any
61 criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be
62 appointed by the judge of the court in which the case is to be heard unless the court finds that the
63 person does not require the services of a court-appointed interpreter. An English-speaking person fluent
64 in the language of the country of the accused, a victim or a witness shall be appointed by the judge of
65 the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing
66 who is approved by the court as being competent. The compensation of an interpreter appointed by the
67 court pursuant to this section shall be fixed by the court in accordance with guidelines set by the
68 Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the
69 expense of trial. Such fee shall ~~not~~ be assessed as part of the costs *if the defendant is found guilty of*
70 *failure to appear*. Whenever a person communicates through an interpreter to any person under such
71 circumstances that the communication would be privileged, and such person could not be compelled to
72 testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this
73 section shall apply in both circuit courts and district courts.