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HOUSE BILL NO. 1290

Offered January 9, 2008

Prefiled January 9, 2008

A *BILL to amend the Code of Virginia by adding in Chapter 1.1 of Title 19.2 a section numbered 19.2-11.5, relating to restorative justice programs.*

Patrons—Athey, Cole, Hall, McClellan, Moran, Plum, Toscano and Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 11 of Title 19.2 a section numbered 19.2-11.5 as follows:

§ 19.2-11.5. Establishment of restorative justice program.

A. As used in this section:

"Facilitator" means a person trained in restorative justice principles and practices whose role is to facilitate, in a fair and impartial manner, the participation of the parties in a restorative process.

"Restorative justice outcome" means an agreement reached as a result of a restorative process. Restorative outcomes include, but are not limited to, responses and programs such as reparation, restitution, and community service aimed at meeting the individual and collective needs and responsibilities of the parties.

"Restorative justice process" means any process in which the victim, when appropriate, and the offender, and, when appropriate, any other individuals or community members affected by a crime participate in a meeting, dialogue, or conference to address the harms, needs, and obligations arising from the crime with the help of a facilitator.

"Restorative justice program" means any program that uses restrictive processes and seeks to achieve a restorative justice outcome.

B. Notwithstanding Title 16.1, upon deferred adjudication or adjudication of guilt, or at any time up to and including sentencing, a court may order an offender into a restorative justice program administered through a court-approved restorative justice program provider. An offender ordered into this program shall be assessed for his suitability to enter the program by the provider and, if deemed suitable, the offender may participate in the program. The provider shall, on a timely basis, provide the court directly or through the probation office, the results of the assessment and, if appropriate, any restorative justice outcome. Such results may be used by the court at the sentencing of the offender.

C. All communications and work product relating to any restorative justice process shall not be subject to discovery or admissible in evidence in any subsequent judicial or administrative proceeding, except with the agreement of the parties or as required by the court or restorative justice program.

D. A court-approved restorative justice program provider, including its employees, volunteers, or members of its board of directors, that provides restorative justice processes for offenders ordered into such a program, is immune from civil liability for, or resulting from, any act or omission made while engaged in efforts to assist or conduct a restorative justice process, unless the act or omission was made in bad faith with malicious intent or in a manner exhibiting a willful, wanton disregard of the rights, safety, or property of another.

INTRODUCED

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