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HOUSE BILL NO. 927

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend the Code of Virginia by adding a section numbered 19.2-303.5, relating to expedited review of probation violations.*

Patron—Bell, Robert B.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 19.2-303.5 as follows:**

§ 19.2-303.5. Terms of suspension or modification of sentence; conditions for expedited review of probation violations.

As a condition of suspension of sentence pursuant to § 19.2-303, the defendant may participate in expedited review of probation violations. An offender may request expedited review and, if the court deems the offender a proper candidate, the court may so order, or the court, on its own motion may recommend participation by the offender and order such participation upon the agreement of the offender.

Any offender who participates in expedited review shall agree, in the event he is arrested for a violation of the conditions of his probation, (i) to a hearing before the court as soon as possible after his arrest, (ii) that he shall not be entitled to counsel except as otherwise provided herein, (iii) that he shall not be entitled to release on bail pending the hearing, (iv) that an affidavit prepared by his probation and parole officer detailing the offense for which he was arrested may be received into evidence without testimony by the officer or right of confrontation by the offender, (v) that the offenses for which participation in the expedited review process is authorized are violations of terms and conditions set by the court pursuant to § 19.2-303 and do not include new criminal offenses, (vi) that he may be subject to random and more frequent drug testing than would be required of a person not participating in expedited review, and (vii) that he is subject to arrest pursuant to a probation officer's violation letter authorized by § 53.1-162.

Any court that places an offender in expedited review shall (i) give such offender's probation violation hearings priority on its docket, (ii) not impose upon him jail time of more than 30 days for a probation violation that is not a new criminal offense, (ii) make available to the offender the best available drug treatment resources, as appropriate, (iii) increase the severity of sanctions over time, during the probation period, that may be imposed for noncompliance with terms and conditions, including the sanction of jail time, when the offender has demonstrated to the court an unwillingness to comply with the terms and conditions imposed upon him and (iv) reduce the severity of sanctions over time, during the probation period, that may be imposed for noncompliance with terms and conditions, including the sanction of jail time, after the offender has demonstrated to the court a willingness to comply with the terms and conditions imposed upon him.

An offender who elects to participate in expedited review shall appear at any probation revocation hearing before the court without an attorney, provided that, at the time of the hearing, if the offender elects to have an attorney represent him, he may be so represented. If he elects to have an attorney represent him, he shall have waived participation in the expedited review process. The court shall advise the offender that he is not eligible for the expedited review process, set bail as appropriate, appoint counsel if the offender is indigent, and set a new date for hearing.

INTRODUCED

HB927