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HOUSE BILL NO. 2230

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on the Judiciary
on February 20, 2023)

(Patron Prior to Substitute—Delegate Wampler)

*A BILL to amend and reenact § 53.1-161 of the Code of Virginia, relating to arrest and return of parolee or felon serving period of postrelease supervision.***Be it enacted by the General Assembly of Virginia:****1. That § 53.1-161 of the Code of Virginia is amended and reenacted as follows:****§ 53.1-161. Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation.**

A. The Chairman or any member of the Board may at any time upon information or a showing of a violation or a probable violation by any parolee ~~or felon serving a period of postrelease supervision~~ of any of the terms or conditions upon which he was released on parole ~~or postrelease period of supervision~~, issue, or cause to be issued, a warrant for the arrest and return of the parolee ~~or felon serving a period of postrelease supervision~~ to the institution from which he was paroled, or to any other correctional facility ~~which that~~ may be designated by the Chairman or member. However, a determination of whether a parolee ~~or felon serving a period of postrelease supervision~~ returned to a correctional facility pursuant to this ~~section~~ subsection shall be returned to a state or local correctional facility shall be made based on the length of the parolee's original sentence as set forth in § 53.1-20 ~~or the period of postrelease supervision as set at sentencing~~. Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual custody in the facility from which he was paroled, or to any other facility designated by the Chairman or member.

In any case in which the parolee ~~or felon serving a period of postrelease supervision~~ is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the parolee, pending adjudication of the violation charged.

B. Upon information or a showing of a violation or a probable violation by any felon serving a period of postrelease supervision of any of the terms or conditions upon which he was released on a postrelease period of supervision, the circuit court of the sentencing jurisdiction may issue, or cause to be issued, a warrant for the arrest and return of the felon serving a period of postrelease supervision to the institution from which he was released, or to any other correctional facility that may be designated by the circuit court. However, a determination of whether a felon serving a period of postrelease supervision returned to a correctional facility pursuant to this subsection shall be returned to a state or local correctional facility shall be made based on the length of the period of postrelease supervision as set at sentencing. Each such warrant shall authorize all officers named therein to arrest and return the felon to actual custody in the facility from which he was released, or to any other facility designated by the circuit court.

In any case in which the felon serving a period of postrelease supervision is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the felon or his attorney, the circuit court of the sentencing jurisdiction shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the felon, pending adjudication of the violation charged.