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HOUSE BILL NO. 77

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 26, 2024)

(Patron Prior to Substitute—Delegate Watts)

A BILL to amend and reenact §§ 16.1-309.1, 16.1-330.1, 17.1-805, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3 of the Code of Virginia, relating to robbery.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-309.1, 16.1-330.1, 17.1-805, 18.2-46.1, 18.2-50.3, 18.2-90, 19.2-297.1, 53.1-40.02, 53.1-131.2, 53.1-151, 53.1-165.1, and 53.1-202.3 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-309.1. Exception as to confidentiality.

A. Notwithstanding any other provision of this article, where consideration of public interest requires, the judge shall make available to the public the name and address of a juvenile and the nature of the offense for which a juvenile has been adjudicated delinquent (i) for an act which would be a Class 1, 2, or 3 felony, forcible rape, robbery or burglary or a related offense as set out in Article 2 (§ 18.2-89 et seq.) of Chapter 5 of Title 18.2 if committed by an adult or (ii) in any case where a juvenile is sentenced as an adult in circuit court.

B. 1. a. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth or, upon notice to the Commonwealth's attorney, the Department of Juvenile Justice or a locally operated court services unit, may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a felony if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the Commonwealth's attorney, the Department of Juvenile Justice, or a locally operated court services unit may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

b. At any time prior to disposition, if a juvenile charged with a delinquent act which would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, petition the court having jurisdiction of the offense to authorize public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was adjudicated and any other information which may expedite his apprehension. Upon a showing that the juvenile is a fugitive and for good cause, the court shall order release of this information to the public. If a juvenile charged with a delinquent act that would constitute a misdemeanor if committed by an adult, or held in custody by a law-enforcement officer, or held in a secure facility pursuant to such charge becomes a fugitive from justice at a time when the court is not in session, the attorney for the Commonwealth may, with notice to the juvenile's attorney of record, authorize the public release of the juvenile's name, age, physical description and photograph, the charge for which he is sought, and any other information which may expedite his apprehension.

2. After final disposition, if a juvenile (i) found to have committed a delinquent act becomes a fugitive from justice or (ii) who has been committed to the Department of Juvenile Justice pursuant to subdivision A 14 of § 16.1-278.8 or § 16.1-285.1 becomes a fugitive from justice by escaping from a facility operated by or under contract with the Department or from the custody of any employee of such facility, the Department may release to the public the juvenile's name, age, physical description and photograph, the charge for which he is sought or for which he was committed, and any other information which may expedite his apprehension. The Department shall promptly notify the attorney for the Commonwealth of the jurisdiction in which the juvenile was tried whenever information is released pursuant to this subdivision. If a juvenile specified in clause (i) being held after disposition in a secure facility not operated by or under contract with the Department becomes a fugitive by such escape, the attorney for the Commonwealth of the locality in which the facility is located may release the

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60 information as provided in this subdivision.

61 C. Whenever a juvenile 14 years of age or older is charged with a delinquent act that would be a
62 criminal violation of Article 2 (§ 18.2-38 et seq.) of Chapter 4 of Title 18.2, a felony involving a
63 weapon, a felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2, or an "act of
64 violence" as defined in subsection A of § 19.2-297.1 if committed by an adult, the judge may, where
65 consideration of the public interest requires, make the juvenile's name and address available to the
66 public.

67 D. Upon the request of a victim of a delinquent act that would be a felony or that would be a
68 misdemeanor violation of § 16.1-253.2, 18.2-57, 18.2-57.2, 18.2-60.3, 18.2-60.4, 18.2-67.4, or 18.2-67.5
69 if committed by an adult, the court may order that such victim be informed of the charge or charges
70 brought, the findings of the court, and the disposition of the case. For purposes of this section, "victim"
71 shall be defined as in § 19.2-11.01.

72 E. Upon request, the judge or clerk may disclose if an order of emancipation of a juvenile pursuant
73 to § 16.1-333 has been entered, provided (i) the order is not being appealed, (ii) the order has not been
74 terminated, or (iii) there has not been a judicial determination that the order is void ab initio.

75 F. Notwithstanding any other provision of law, a copy of any court order that imposes a curfew or
76 other restriction on a juvenile may be provided to the chief law-enforcement officer of the county or city
77 wherein the juvenile resides. The chief law-enforcement officer shall only disclose information contained
78 in the court order to other law-enforcement officers in the conduct of official duties.

79 G. Notwithstanding any other provision of law, where consideration of public safety requires, the
80 Department and locally operated court service unit shall release information relating to a juvenile's
81 criminal street gang involvement, if any, and the criminal street gang-related activity and membership of
82 others, as criminal street gang is defined in § 18.2-46.1, obtained from an investigation or supervision of
83 a juvenile and shall include the identity or identifying information of the juvenile; however, the
84 Department and local court service unit shall not release the identifying information of a juvenile not
85 affiliated with or involved in a criminal street gang unless that information relates to a specific criminal
86 act. Such information shall be released to any State Police, local police department, sheriff's office, or
87 law-enforcement task force that is a part of or administered by the Commonwealth or any political
88 subdivision thereof, and that is responsible for the prevention and detection of crime and the
89 enforcement of the penal, traffic, or highway laws of the Commonwealth. The exchange of information
90 shall be for the purpose of an investigation into criminal street gang activity.

91 H. Notwithstanding any other provision of Article 12 (§ 16.1-299 et seq.), a clerk of the court shall
92 report to the Bureau of Immigration and Customs Enforcement of the U.S. Department of Homeland
93 Security a juvenile who has been detained in a secure facility but only upon an adjudication of
94 delinquency or finding of guilt for a violent juvenile felony and when there is evidence that the juvenile
95 is in the United States illegally.

96 I. Notwithstanding any other provision of this article, whenever an intake officer proceeds informally
97 against a juvenile, the Department or local court service unit may disclose only such information as
98 necessary to enforce any provision of the diversion program to any law-enforcement officer, school
99 principal where such juvenile attends school, or known victim. Such information shall remain
100 confidential and not be part of such juvenile's academic record. Additionally, a local court service unit
101 may provide information regarding the availability and ordering of a protective order and restitution and
102 dispositional information to the victim in the case.

103 **§ 16.1-330.1. Serious or Habitual Offender Comprehensive Action Program; definition;**
104 **disclosure of information; penalty.**

105 A. For purposes of this article, a serious or habitual juvenile offender is a minor who has been (i)
106 adjudicated delinquent or convicted of murder or attempted murder, ~~armed~~ robbery *in violation of*
107 *subdivision B 1, 2, or 3 of § 18.2-58*, any felony sexual assault or malicious wounding, or a felony
108 violation of a gang-related crime pursuant to Article 2.1 (§ 18.2-46.1 et seq.) of Chapter 4 of Title 18.2,
109 or (ii) convicted at least three times for offenses which would be felonies or Class 1 misdemeanors if
110 committed by an adult. Qualifying convictions or adjudications shall include only those for offenses
111 occurring after July 1, 1993. However, any Serious or Habitual Offender Comprehensive Action
112 Program (SHOCAP) in existence on July 1, 1993, shall be deemed to have been established pursuant to
113 this article and, notwithstanding the limitations of this subsection, may continue to supervise persons
114 who were being supervised on July 1, 1993. Juvenile offenders under SHOCAP supervision at the time
115 of their eighteenth birthday who have been committed to state care pursuant to subdivision A 14 of
116 § 16.1-278.8 or § 16.1-285.1 may continue to be supervised by SHOCAP until their twenty-first
117 birthday.

118 B. The Serious or Habitual Offender Comprehensive Action Program (SHOCAP) is a
119 multidisciplinary interagency case management and information sharing system which enables the
120 juvenile and criminal justice system, schools, and social service agencies to make more informed
121 decisions regarding juveniles who repeatedly commit serious criminal and delinquent acts. Each

122 SHOCAP shall supervise serious or habitual juvenile offenders in the community as well as those under
 123 probation or parole supervision and enhance current conduct control, supervision and treatment efforts to
 124 provide a more coordinated public safety approach to serious juvenile crime, increase the opportunity for
 125 success with juvenile offenders and assist in the development of early intervention strategies.

126 C. Any county or city in the Commonwealth may by action of its governing body establish a
 127 SHOCAP committee. The committee shall consist of representatives from local law enforcement,
 128 schools, attorneys for the Commonwealth, juvenile court services, juvenile detention centers or group
 129 homes, mental and medical health agencies, state and local children and family service agencies, and the
 130 Department of Juvenile Justice. Any county or city which establishes a SHOCAP committee shall,
 131 within 45 days of such action, notify the Department of Criminal Justice Services. The Department shall
 132 issue statewide SHOCAP guidelines and provide technical assistance to local jurisdictions on
 133 implementation of SHOCAP.

134 D. Each SHOCAP committee shall share among its members and with other SHOCAP committees
 135 otherwise confidential information on identified serious or habitual juvenile offenders. Every person,
 136 including members of the SHOCAP committee, who is to receive confidential information pursuant to
 137 this article shall maintain the confidentiality of that information.

138 All records and reports concerning serious or habitual juvenile offenders made available to members
 139 of a SHOCAP committee and all records and reports identifying an individual offender which are
 140 generated by the committee from such reports shall be confidential and shall not be disclosed, except as
 141 specifically authorized by this article or other applicable law. Disclosure of the information may be
 142 made to other staff from member agencies as authorized by the SHOCAP committee for the furtherance
 143 of case management, community supervision, conduct control and locating of the offender for the
 144 application and coordination of appropriate services. Staff from the member agencies who receive such
 145 information will be governed by the confidentiality provisions of this article. The staff from the member
 146 agencies who will qualify to have access to the SHOCAP information shall be limited to those
 147 individuals who provide direct services to the offender or who provide community conduct control and
 148 supervision to the offender.

149 The provisions of this article authorizing information sharing between and among SHOCAP
 150 committees shall take precedence over the provisions of (i) Article 12 (§ 16.1-299 et seq.) of Chapter 11
 151 of this title governing dissemination of court and law-enforcement records concerning juveniles, (ii)
 152 Article 5 (§ 22.1-287 et seq.) of Chapter 14 of Title 22.1 governing access to pupil records, (iii) Title
 153 37.2 and any regulations enacted pursuant thereto governing access to juvenile mental health records,
 154 and (iv) Title 63.2 and any regulations enacted pursuant thereto governing access to records concerning
 155 treatments or services provided to a juvenile.

156 E. It shall be unlawful for any staff person from a member agency to disclose or to knowingly
 157 permit, assist or encourage the unauthorized release of any identifying information contained in any
 158 reports or records received or generated by a SHOCAP committee. A violation of this subsection shall
 159 be punishable as a Class 3 misdemeanor.

160 **§ 17.1-805. Adoption of initial discretionary sentencing guideline midpoints.**

161 A. The Commission shall adopt an initial set of discretionary felony sentencing guidelines which
 162 shall become effective on January 1, 1995. The initial recommended sentencing range for each felony
 163 offense shall be determined first, by computing the actual time-served distribution for similarly situated
 164 offenders, in terms of their conviction offense and prior criminal history, released from incarceration
 165 during the base period of calendar years 1988 through 1992, increased by 13.4 percent, and second, by
 166 eliminating from this range the upper and lower quartiles. The midpoint of each initial recommended
 167 sentencing range shall be the median time served for the middle two quartiles and subject to the
 168 following additional enhancements:

169 1. The midpoint of the initial recommended sentencing range for first degree murder, second degree
 170 murder, rape in violation of § 18.2-61, forcible sodomy, object sexual penetration, and aggravated sexual
 171 battery shall be further increased by (i) 125 percent in cases in which the defendant has no previous
 172 conviction of a violent felony offense; (ii) 300 percent in cases in which the defendant has previously
 173 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years;
 174 or (iii) 500 percent in cases in which the defendant has previously been convicted of a violent felony
 175 offense punishable by a maximum punishment of 40 years or more, except that the recommended
 176 sentence for a defendant convicted of first degree murder who has previously been convicted of a
 177 violent felony offense punishable by a maximum term of imprisonment of 40 years or more shall be
 178 imprisonment for life;

179 2. The midpoint of the initial recommended sentencing range for voluntary manslaughter, robbery
 180 *committed before July 1, 2021, where, during the commission of such robbery, such person caused*
 181 *serious bodily injury to or the death of any other person or used or displayed a firearm in a threatening*
 182 *manner, robbery committed on or after July 1, 2021, in violation of subdivision B 1 or 2 of § 18.2-58,*

183 aggravated malicious wounding, malicious wounding, and any burglary of a dwelling house or statutory
184 burglary of a dwelling house or any burglary committed while armed with a deadly weapon or any
185 statutory burglary committed while armed with a deadly weapon shall be further increased by (i) 100
186 percent in cases in which the defendant has no previous conviction of a violent felony offense, (ii) 300
187 percent in cases in which the defendant has previously been convicted of a violent felony offense
188 punishable by a maximum term of imprisonment of less than 40 years, or (iii) 500 percent in cases in
189 which the defendant has previously been convicted of a violent felony offense punishable by a
190 maximum term of imprisonment of 40 years or more;

191 3. The midpoint of the initial recommended sentencing range for manufacturing, selling, giving, or
192 distributing, or possessing with the intent to manufacture, sell, give, or distribute a Schedule I or II
193 controlled substance, shall be increased by (i) 200 percent in cases in which the defendant has
194 previously been convicted of a violent felony offense punishable by a maximum punishment of less than
195 40 years or (ii) 400 percent in cases in which the defendant has previously been convicted of a violent
196 felony offense punishable by a maximum term of imprisonment of 40 years or more; and

197 4. The midpoint of the initial recommended sentencing range for felony offenses not specified in
198 subdivision 1, 2, or 3 shall be increased by 100 percent in cases in which the defendant has previously
199 been convicted of a violent felony offense punishable by a maximum punishment of less than 40 years
200 and by 300 percent in cases in which the defendant has previously been convicted of a violent felony
201 offense punishable by a maximum term of imprisonment of 40 years or more.

202 B. For purposes of this chapter, previous convictions shall include prior adult convictions and
203 juvenile convictions and adjudications of delinquency based on an offense which would have been at the
204 time of conviction a felony if committed by an adult under the laws of any state, the District of
205 Columbia, or the United States or its territories.

206 C. For purposes of this chapter, violent felony offenses shall include any felony violation of
207 § 16.1-253.2; solicitation to commit murder under § 18.2-29; any violation of § 18.2-31, 18.2-32,
208 18.2-32.1, 18.2-32.2, 18.2-33, or 18.2-35; any violation of subsection B of § 18.2-36.1; any violation of
209 § 18.2-40 or 18.2-41; any violation of clause (c)(i) or (ii) of subsection B of § 18.2-46.3; any violation
210 of § 18.2-46.5, 18.2-46.6, or 18.2-46.7; any Class 5 felony violation of § 18.2-47; any felony violation
211 of § 18.2-48, 18.2-48.1, or 18.2-49; any violation of § 18.2-51, 18.2-51.1, 18.2-51.2, 18.2-51.3,
212 18.2-51.4, 18.2-51.6, 18.2-52, 18.2-52.1, 18.2-53, 18.2-53.1, 18.2-54.1, 18.2-54.2, or 18.2-55; any
213 violation of subsection B of § 18.2-57; any felony violation of § 18.2-57.2; any violation of § 18.2-58 or
214 18.2-58.1; any felony violation of § 18.2-60.1, 18.2-60.3, or 18.2-60.4; any violation of § 18.2-61,
215 18.2-64.1, 18.2-67.1, 18.2-67.2, former § 18.2-67.2:1, 18.2-67.3, 18.2-67.5, or 18.2-67.5:1 involving a
216 third conviction of either sexual battery in violation of § 18.2-67.4 or attempted sexual battery in
217 violation of subsection C of § 18.2-67.5; any Class 4 felony violation of § 18.2-63; any violation of
218 subsection A of § 18.2-67.4:1; any violation of subsection A of § 18.2-77; any Class 3 felony violation
219 of § 18.2-79; any Class 3 felony violation of § 18.2-80; any violation of § 18.2-85, 18.2-89, 18.2-90,
220 18.2-91, 18.2-92, or 18.2-93; any felony violation of § 18.2-152.7; any Class 4 felony violation of
221 § 18.2-153; any Class 4 felony violation of § 18.2-154; any Class 4 felony violation of § 18.2-155; any
222 felony violation of § 18.2-162; any violation of § 18.2-279 involving an occupied dwelling; any felony
223 violation of subsection A or B of § 18.2-280; any violation of § 18.2-281; any felony violation of
224 subsection A of § 18.2-282; any felony violation of § 18.2-282.1; any violation of § 18.2-286.1,
225 18.2-287.2, 18.2-289, or 18.2-290; any violation of subsection A of § 18.2-300; any felony violation of
226 subsection C of § 18.2-308.1 or § 18.2-308.2; any violation of § 18.2-308.2:1 or subsection M or N of
227 § 18.2-308.2:2; any violation of § 18.2-308.3 or 18.2-312; any former felony violation of § 18.2-346; any
228 felony violation of § 18.2-346.01, 18.2-348, or 18.2-349; any violation of § 18.2-355, 18.2-356,
229 18.2-357, or 18.2-357.1; any violation of former § 18.2-358; any violation of subsection B of
230 § 18.2-361; any violation of subsection B of § 18.2-366; any violation of § 18.2-368, 18.2-370, or
231 18.2-370.1; any violation of subsection A of § 18.2-371.1; any felony violation of § 18.2-369 resulting
232 in serious bodily injury or disease; any violation of § 18.2-374.1; any felony violation of § 18.2-374.1:1;
233 any violation of § 18.2-374.3 or 18.2-374.4; any second or subsequent offense under §§ 18.2-379 and
234 18.2-381; any felony violation of § 18.2-405 or 18.2-406; any violation of § 18.2-408, 18.2-413,
235 18.2-414, 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; any felony violation of
236 § 18.2-460, 18.2-474.1, or 18.2-477.1; any violation of § 18.2-477, 18.2-478, 18.2-480, 18.2-481, or
237 18.2-485; any violation of § 37.2-917; any violation of § 52-48; any violation of § 53.1-203; any
238 conspiracy or attempt to commit any offense specified in this subsection, or any substantially similar
239 offense under the laws of any state, the District of Columbia, or the United States or its territories.

240 **§ 18.2-46.1. Definitions.**

241 As used in this article, unless the context requires a different meaning:

242 "Act of violence" means those felony offenses described in subsection C of § 17.1-805 or subsection
243 A of § 19.2-297.1.

244 "Criminal street gang" means any ongoing organization, association, or group of three or more

245 persons, whether formal or informal, (i) which has as one of its primary objectives or activities the
 246 commission of one or more criminal activities; (ii) which has an identifiable name or identifying sign or
 247 symbol; and (iii) whose members individually or collectively have engaged in the commission of,
 248 attempt to commit, conspiracy to commit, or solicitation of two or more predicate criminal acts, at least
 249 one of which is an act of violence, provided such acts were not part of a common act or transaction.

250 "Predicate criminal act" means (i) an act of violence; (ii) any violation of § 18.2-42, 18.2-46.3,
 251 18.2-56.1, 18.2-57, or 18.2-57.2, subdivision B 3 or 4 of § 18.2-58, or § 18.2-59, 18.2-83, 18.2-95,
 252 18.2-103.1, 18.2-108.1, 18.2-121, 18.2-127, 18.2-128, 18.2-137, 18.2-138, 18.2-146, 18.2-147,
 253 18.2-248.01, 18.2-248.03, 18.2-255, 18.2-255.2, 18.2-287.4, 18.2-300, 18.2-308.1, 18.2-308.2,
 254 18.2-308.2:01, 18.2-308.4, or 18.2-357.1; (iii) a felony violation of § 18.2-60.3, 18.2-346.01, 18.2-348,
 255 or 18.2-349; (iv) a felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1 or a conspiracy to commit a
 256 felony violation of § 4.1-1101, 18.2-248, or 18.2-248.1; (v) any violation of a local ordinance adopted
 257 pursuant to § 15.2-1812.2; or (vi) any substantially similar offense under the laws of another state or
 258 territory of the United States, the District of Columbia, or the United States.

259 **§ 18.2-50.3. Enticing, etc., another into a dwelling house with intent to commit certain felonies;**
 260 **penalty.**

261 Any person who commits a violation of § 18.2-31, 18.2-32, 18.2-32.1, 18.2-48, or 18.2-51.2,
 262 subdivision B 1, 2, or 3 of § 18.2-58, or § 18.2-61, 18.2-67.1, or 18.2-67.2 within a dwelling house and
 263 who, with the intent to commit a felony listed in this section, enticed, solicited, requested, or otherwise
 264 caused the victim to enter such dwelling house is guilty of a Class 6 felony. A violation of this section
 265 is a separate and distinct felony.

266 **§ 18.2-90. Entering dwelling house, etc., with intent to commit murder, rape, robbery or arson;**
 267 **penalty.**

268 If any person in the nighttime enters without breaking or in the daytime breaks and enters or enters
 269 and conceals himself in a dwelling house or an adjoining, occupied outhouse or in the nighttime enters
 270 without breaking or at any time breaks and enters or enters and conceals himself in any building
 271 permanently affixed to realty, or any ship, vessel, or river craft or any railroad car, or any automobile,
 272 truck, or trailer, if such automobile, truck, or trailer is used as a dwelling or place of human habitation,
 273 with intent to commit murder, rape, robbery in violation of subdivision B 1, 2, or 3 of § 18.2-58, or
 274 arson in violation of §§ § 18.2-77, 18.2-79, or § 18.2-80, he shall be deemed guilty of statutory
 275 burglary, which offense shall be a Class 3 felony. However, if such person was armed with a deadly
 276 weapon at the time of such entry, he shall be guilty of a Class 2 felony.

277 **§ 19.2-297.1. Sentence of person twice previously convicted of certain violent felonies.**

278 A. Any person convicted of two or more separate acts of violence when such offenses were not part
 279 of a common act, transaction or scheme, and who has been at liberty as defined in § 53.1-151 between
 280 each conviction, shall, upon conviction of a third or subsequent act of violence, be sentenced to life
 281 imprisonment and shall not have all or any portion of the sentence suspended, provided it is admitted, or
 282 found by the jury or judge before whom he is tried, that he has been previously convicted of two or
 283 more such acts of violence. For the purposes of this section, "act of violence" means (i) any one of the
 284 following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2:

285 a. First and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.);

286 b. Mob-related felonies under Article 2 (§ 18.2-38 et seq.);

287 c. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.);

288 d. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.);

289 e. Robbery ~~under~~ committed before July 1, 2021, where, during the commission of such robbery,
 290 such person caused serious bodily injury to or the death of any other person or used or displayed a
 291 firearm in a threatening manner or robbery committed on or after July 1, 2021, in violation of
 292 subdivision B 1 or 2 of § 18.2-58 and carjacking under § 18.2-58.1;

293 f. Except as otherwise provided in § 18.2-67.5:2 or § 18.2-67.5:3, criminal sexual assault punishable
 294 as a felony under Article 7 (§ 18.2-61 et seq.); or

295 g. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony
 296 violation of § 18.2-79.

297 (ii) conspiracy to commit any of the violations enumerated in clause (i) of this section; and (iii)
 298 violations as a principal in the second degree or accessory before the fact of the provisions enumerated
 299 in clause (i) of this section.

300 B. Prior convictions shall include convictions under the laws of any state or of the United States for
 301 any offense substantially similar to those listed under "act of violence" if such offense would be a
 302 felony if committed in the Commonwealth.

303 The Commonwealth shall notify the defendant in writing, at least thirty days prior to trial, of its
 304 intention to seek punishment pursuant to this section.

305 C. Any person sentenced to life imprisonment pursuant to this section shall not be eligible for parole

306 and shall not be eligible for any good conduct allowance or any earned sentence credits under Chapter 6
 307 (§ 53.1-186 et seq.) of Title 53.1. However, any person subject to the provisions of this section, other
 308 than a person who was sentenced under subsection A of § 18.2-67.5:3 for criminal sexual assault
 309 convictions specified in subdivision f, (i) who has reached the age of sixty-five or older and who has
 310 served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and
 311 who has served at least ten years of the sentence imposed may petition the Parole Board for conditional
 312 release. The Parole Board shall promulgate regulations to implement the provisions of this subsection.

313 **§ 53.1-40.02. Conditional release of terminally ill prisoners.**

314 A. As used in this section, "terminally ill" means having a chronic or progressive medical condition
 315 caused by injury, disease, or illness where the medical prognosis is the person's death within 12 months.

316 B. Any person serving a sentence imposed upon a conviction for a felony offense, except as
 317 provided in subsection C, who is terminally ill may petition the Parole Board for conditional release.

318 C. A person who is terminally ill and is serving a sentence imposed upon a conviction for one of the
 319 following offenses shall not be eligible to petition the Parole Board for conditional release:

320 1. A Class 1 felony;

321 2. Any violation of § 18.2-32, 18.2-32.1, 18.2-32.2, or 18.2-33;

322 3. Any violation of § 18.2-40 or 18.2-45;

323 4. Any violation of § 18.2-46.5, subsection A or B of § 18.2-46.6, or § 18.2-46.7;

324 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2,
 325 except for a violation of § 18.2-49.1;

326 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.)
 327 of Chapter 4 of Title 18.2, any violation of § 18.2-51.7, 18.2-54.1, or 18.2-54.2, or any felony violation
 328 of § 18.2-57.2;

329 7. Any felony violation of § 18.2-60.3;

330 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;

331 9. Robbery under *subdivision B 1 or 2* of § 18.2-58 or carjacking under § 18.2-58.1;

332 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of
 333 Title 18.2, except, when not committed against a minor, a violation of subdivision A 5 of § 18.2-67.3,
 334 § 18.2-67.4:1, subsection B of § 18.2-67.5, or § 18.2-67.5:1;

335 11. Any violation of § 18.2-90 or 18.2-93;

336 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;

337 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2 involving a minor
 338 victim;

339 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2 involving a minor
 340 victim, except for a violation of § 18.2-362 or 18.2-370.5 or subsection B of § 18.2-371.1;

341 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2 involving a minor
 342 victim, except for a violation of subsection A of § 18.2-374.1:1;

343 16. Any violation of § 18.2-481, 40.1-100.2, or 40.1-103; or

344 17. A second or subsequent felony violation of the following offenses when such offenses were not
 345 part of a common act, transaction, or scheme and such person has been at liberty as defined in
 346 § 53.1-151 between each conviction:

347 a. Voluntary or involuntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title
 348 18.2 or any crime punishable as such;

349 b. Any violation of § 18.2-41 or 18.2-42.1;

350 c. Any violation of subsection C of § 18.2-46.6;

351 d. Any violation when done unlawfully but not maliciously of § 18.2-51 or 18.2-51.1;

352 e. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony
 353 violation of § 18.2-79;

354 f. Any violation of § 18.2-89 with the intent to commit any larceny or § 18.2-92;

355 g. Any violation of subsection A of § 18.2-374.1:1;

356 h. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or

357 i. Any violation of subdivision E 2 of § 40.1-29.

358 D. The Parole Board shall promulgate regulations to implement the provisions of this section.

359 **§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs;
 360 escape; penalty.**

361 A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic
 362 offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support
 363 pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or
 364 local correctional facility, and if it appears to the court that such an offender is a suitable candidate for
 365 home/electronic incarceration, assign the offender to a home/electronic incarceration program as a
 366 condition of probation, if such program exists, under the supervision of the sheriff, the administrator of
 367 a local or regional jail, or a Department of Corrections probation and parole district office established

368 pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of
 369 Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic
 370 incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1
 371 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or
 372 abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious
 373 bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery under *subdivision B 1 or 2 of § 18.2-58*
 374 *or carjacking under § 18.2-58.1*; or (vi) any criminal sexual assault punishable as a felony under Article
 375 7 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release
 376 employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate,
 377 in a court-ordered intensive case monitoring program for child support. The court shall be notified in
 378 writing by the director or administrator of the program to which the offender is assigned of the
 379 offender's place of home/electronic incarceration, place of employment, and the location of any
 380 educational or rehabilitative program in which the offender participates.

381 B. In any city or county in which a home/electronic incarceration program established pursuant to
 382 this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local
 383 or regional jail, may assign the accused to such a program pending trial if it appears to the court that
 384 the accused is a suitable candidate for home/electronic incarceration.

385 C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison
 386 but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the
 387 convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under
 388 the supervision of the sheriff, the administrator of a local or regional jail, or a Department of
 389 Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender
 390 violates any provision of the terms of the home/electronic incarceration agreement, the offender may
 391 have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally
 392 sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a
 393 conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving,
 394 distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or
 395 Schedule II controlled substance. The court shall retain authority to remove the offender from such
 396 home/electronic incarceration program. The court which sentenced the offender shall be notified in
 397 writing by the sheriff or the administrator of a local or regional jail of the offender's place of
 398 home/electronic incarceration and place of employment or other rehabilitative program.

399 D. The Board may prescribe regulations to govern home/electronic incarceration programs, and the
 400 Director may prescribe rules to govern home/electronic incarceration programs operated under the
 401 supervision of a Department of Corrections probation and parole district office established pursuant to
 402 § 53.1-141.

403 E. Any offender or accused assigned to such a program by the court or sheriff who, without proper
 404 authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been
 405 assigned to work or attend educational or other rehabilitative programs, including a court-ordered
 406 intensive case monitoring program for child support, or the vehicle or route of travel involved in his
 407 going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who
 408 is found guilty of a violation of this section shall be ineligible for further participation in a
 409 home/electronic incarceration program during his current term of confinement.

410 F. The director or administrator of a home/electronic incarceration program who also operates a
 411 residential program may remove an offender from a home/electronic incarceration program and place
 412 him in such residential program if the offender commits a noncriminal program violation. The court
 413 shall be notified of the violation and of the placement of the offender in the residential program.

414 G. The director or administrator of a home/electronic incarceration program may charge the offender
 415 or accused a fee for participating in the program which shall be used for the cost of home/electronic
 416 incarceration equipment. The offender or accused shall be required to pay the program for any damage
 417 to the equipment which is in his possession or for failure to return the equipment to the program.

418 H. Any wages earned by an offender or accused assigned to a home/electronic incarceration program
 419 and participating in work release shall be paid to the director or administrator after standard payroll
 420 deductions required by law. Distribution of the money collected shall be made in the following order of
 421 priority to:

- 422 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall
- 423 be disbursed according to the terms of such order;
- 424 2. Pay any fines, restitution or costs as ordered by the court;
- 425 3. Pay travel and other such expenses made necessary by his work release employment or
- 426 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
- 427 4. Defray the offender's keep.
- 428 The balance shall be credited to the offender's account or sent to his family in an amount the

429 offender so chooses.

430 The State Board of Local and Regional Jails shall promulgate regulations governing the receipt of
431 wages paid to persons participating in such programs, except programs operated under the supervision of
432 a Department of Corrections probation and parole district office established pursuant to § 53.1-141, the
433 withholding of payments, and the disbursement of appropriate funds. The Director shall prescribe rules
434 governing the receipt of wages paid to persons participating in such programs operated under the
435 supervision of a Department of Corrections probation and parole district office established pursuant to
436 § 53.1-141, the withholding of payments, and the disbursement of appropriate funds.

437 I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person
438 charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate
439 a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration
440 programs pursuant to this section.

441 **§ 53.1-151. Eligibility for parole.**

442 A. Except as herein otherwise provided, every person convicted of a felony and sentenced and
443 committed by a court under the laws of this Commonwealth to the Department of Corrections, whether
444 or not such person is physically received at a Department of Corrections facility, or as provided for in
445 § 19.2-308.1:

446 1. For the first time, shall be eligible for parole after serving one-fourth of the term of imprisonment
447 imposed, or after serving twelve years of the term of imprisonment imposed if one-fourth of the term of
448 imprisonment imposed is more than twelve years;

449 2. For the second time, shall be eligible for parole after serving one-third of the term of
450 imprisonment imposed, or after serving thirteen years of the term of imprisonment imposed if one-third
451 of the term of imprisonment imposed is more than thirteen years;

452 3. For the third time, shall be eligible for parole after serving one-half of the term of imprisonment
453 imposed, or after serving fourteen years of the term of imprisonment imposed if one-half of the term of
454 imprisonment imposed is more than fourteen years;

455 4. For the fourth or subsequent time, shall be eligible for parole after serving three-fourths of the
456 term of imprisonment imposed, or after serving fifteen years of the term of imprisonment imposed if
457 three-fourths of the term of imprisonment imposed is more than fifteen years.

458 For the purposes of subdivisions 2, 3 and 4 of subsection A and for the purposes of subsections B1
459 and B2, prior commitments shall include commitments to any correctional facility under the laws of any
460 state, the District of Columbia, the United States or its territories for murder, rape, robbery, forcible
461 sodomy, animate or inanimate object sexual penetration, aggravated sexual battery, abduction,
462 kidnapping, burglary, felonious assault or wounding, or manufacturing, selling, giving, distributing or
463 possessing with the intent to manufacture, sell, give or distribute a controlled substance, if such would
464 be a felony if committed in the Commonwealth. Only prior commitments interrupted by a person's being
465 at liberty, or resulting from the commission of a felony while in a correctional facility of the
466 Commonwealth, of any other state or of the United States, shall be included in determining the number
467 of times such person has been convicted, sentenced and committed for the purposes of subdivisions 2, 3
468 and 4 of subsection A. "At liberty" as used herein shall include not only freedom without any legal
469 restraints, but shall also include release pending trial, sentencing or appeal, or release on probation or
470 parole or escape. In the case of terms of imprisonment to be served consecutively, the total time
471 imposed shall constitute the term of the imprisonment; in the case of terms of imprisonment to be
472 served concurrently, the longest term imposed shall be the term of imprisonment. In any case in which a
473 parolee commits an offense while on parole, only the sentence imposed for such offense and not the
474 sentence or sentences or any part thereof from which he was paroled shall constitute the term of
475 imprisonment.

476 The Department of Corrections shall make all reasonable efforts to determine prior convictions and
477 commitments of each inmate for the enumerated offenses.

478 B. Persons sentenced to die shall not be eligible for parole. Any person sentenced to life
479 imprisonment who escapes from a correctional facility or from any person in charge of his custody shall
480 not be eligible for parole.

481 B1. Any person convicted of three separate felony offenses of (i) murder, (ii) rape, or (iii) robbery
482 by the presenting of firearms or other deadly weapon, or any combination of the offenses specified in
483 subdivisions clauses (i), (ii), or (iii) when such offenses were not part of a common act, transaction, or
484 scheme shall not be eligible for parole. In the event of a determination by the Department of Corrections
485 that an individual is not eligible for parole under this subsection, the Parole Board may in its discretion,
486 review that determination, and make a determination for parole eligibility pursuant to regulations
487 promulgated by it for that purpose. Any determination of the Parole Board of parole eligibility thereby
488 shall supersede any prior determination of parole ineligibility by the Department of Corrections under
489 this subsection.

490 B2. Any person convicted of three separate felony offenses of manufacturing, selling, giving,

491 distributing or possessing with the intent to manufacture, sell, give or distribute a controlled substance,
492 when such offenses were not part of a common act, transaction or scheme, and who has been at liberty
493 as defined in this section between each conviction, shall not be eligible for parole.

494 C. Any person sentenced to life imprisonment for the first time shall be eligible for parole after
495 serving fifteen years, except that if such sentence was for a Class 1 felony violation or the first degree
496 murder of a child under the age of eight in violation of § 18.2-32, he shall be eligible for parole after
497 serving twenty-five years, unless he is ineligible for parole pursuant to subsection B1 or B2.

498 D. A person who has been sentenced to two or more life sentences, except a person to whom the
499 provisions of subsection B1, B2, or E of this section are applicable, shall be eligible for parole after
500 serving twenty years of imprisonment, except that if either such sentence, or both, was or were for a
501 Class 1 felony violation, and he is not otherwise ineligible for parole pursuant to subsection B1, B2, or
502 E of this section, he shall be eligible for parole only after serving thirty years.

503 E. A person convicted of an offense and sentenced to life imprisonment after being paroled from a
504 previous life sentence shall not be eligible for parole.

505 E1. Any person who has been convicted of murder in the first degree, rape in violation of § 18.2-61,
506 forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery and who
507 has been sentenced to a term of years shall, upon a first commitment to the Department of Corrections,
508 be eligible for parole after serving two-thirds of the term of imprisonment imposed or after serving
509 fourteen years of the term of imprisonment imposed if two-thirds of the term of imprisonment imposed
510 is more than fourteen years. If such person has been previously committed to the Department of
511 Corrections, such person shall be eligible for parole after serving three-fourths of the term of
512 imprisonment imposed or after serving fifteen years of the terms of imprisonment imposed if
513 three-fourths of the term of imprisonment imposed is more than fifteen years.

514 F. If the sentence of a person convicted of a felony and sentenced to the Department is partially
515 suspended, he shall be eligible for parole based on the portion of such sentence execution which was not
516 suspended.

517 G. The eligibility time for parole as specified in subsections A, C and D of this section may be
518 modified as provided in §§ 53.1-191, 53.1-197 and 53.1-198.

519 H. The time for eligibility for parole as specified in subsection D of this section shall apply only to
520 those criminal acts committed on or after July 1, 1976.

521 I. The provisions of subdivisions 2, 3 and 4 of subsection A shall apply only to persons committed
522 to the Department of Corrections on or after July 1, 1979, but such persons' convictions and
523 commitments shall include all felony convictions and commitments without regard to the date of such
524 convictions and commitments.

525 **§ 53.1-165.1. Limitation on the application of parole statutes.**

526 A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence
527 imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after
528 January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or
529 after January 1, 1995, shall not be eligible for parole upon that offense.

530 B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June
531 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated
532 for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony
533 offenses where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in
534 violation of § 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual
535 battery in violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or
536 (f) carnal knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

537 C. The Parole Board shall establish procedures for consideration of parole of persons entitled under
538 subsection B or F consistent with the provisions of § 53.1-154.

539 D. Any person who meets eligibility criteria for parole under subsection B and pursuant to
540 § 53.1-151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021,
541 allowing for extension of time for reasonable cause.

542 E. Notwithstanding the provisions of subsection A or any other provision of this article to the
543 contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies
544 committed while the person was a juvenile and who has served at least 20 years of such sentence shall
545 be eligible for parole and any person who has active sentences that total more than 20 years for a single
546 felony or multiple felonies committed while the person was a juvenile and who has served at least 20
547 years of such sentences shall be eligible for parole. The Board shall review and decide the case of each
548 prisoner who is eligible for parole in accordance with § 53.1-154 and rules adopted pursuant to
549 subdivision 2 of § 53.1-136.

550 F. *Notwithstanding the provisions of subsection C of § 19.2-297.1, the provisions of this article shall*
551 *apply to any person who was sentenced to a term of life imprisonment pursuant to § 19.2-297.1 where*

552 (i) at least one of the acts of violence committed by such person upon which the life sentence was
 553 predicated was for robbery in violation of § 18.2-58 committed prior to July 1, 2021, and (ii) such
 554 person, during the commission of such robbery, did not (a) cause serious bodily injury to or the death
 555 of another person or (b) use or display a firearm in a threatening manner.

556 **§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.**

557 A. A maximum of 4.5 sentence credits may be earned for each 30 days served on a sentence for a
 558 conviction for any offense of:

- 559 1. A Class 1 felony;
- 560 2. Solicitation to commit murder under § 18.2-29 or any violation of § 18.2-32, 18.2-32.1, 18.2-32.2,
 561 or 18.2-33;
- 562 3. Any violation of § 18.2-40 or 18.2-45;
- 563 4. Any violation of subsection A of § 18.2-46.5, of subsection D of § 18.2-46.5 if the death of any
 564 person results from providing any material support, or of subsection A of § 18.2-46.6;
- 565 5. Any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.) of Chapter 4 of Title 18.2;
- 566 6. Any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.)
 567 of Chapter 4 of Title 18.2, any violation of § 18.2-51.6 or 18.2-51.7, or any felony violation of
 568 § 18.2-57.2;
- 569 7. Any felony violation of § 18.2-60.3;
- 570 8. Any felony violation of § 16.1-253.2 or 18.2-60.4;
- 571 9. Robbery under *subdivision B 1 or 2* of § 18.2-58 or carjacking under § 18.2-58.1;
- 572 10. Criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.) of Chapter 4 of
 573 Title 18.2;
- 574 11. Any violation of § 18.2-90;
- 575 12. Any violation of § 18.2-289 or subsection A of § 18.2-300;
- 576 13. Any felony offense in Article 3 (§ 18.2-346 et seq.) of Chapter 8 of Title 18.2;
- 577 14. Any felony offense in Article 4 (§ 18.2-362 et seq.) of Chapter 8 of Title 18.2, except for a
 578 violation of § 18.2-362 or subsection B of § 18.2-371.1;
- 579 15. Any felony offense in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, except for a
 580 violation of subsection A of § 18.2-374.1:1;
- 581 16. Any violation of subsection F of § 3.2-6570, any felony violation of § 18.2-128, or any violation
 582 of § 18.2-481, 37.2-917, 37.2-918, 40.1-100.2, or 40.1-103; or
- 583 17. A second or subsequent violation of the following offenses, in any combination, when such
 584 offenses were not part of a common act, transaction, or scheme and such person has been at liberty as
 585 defined in § 53.1-151 between each conviction:
 - 586 a. Any felony violation of § 3.2-6571;
 - 587 b. Voluntary manslaughter under Article 1 (§ 18.2-30 et seq.) of Chapter 4 of Title 18.2;
 - 588 c. Any violation of § 18.2-41 or felony violation of § 18.2-42.1;
 - 589 d. Any violation of subsection B, C, or D of § 18.2-46.5 or § 18.2-46.7;
 - 590 e. Any violation of § 18.2-51 when done unlawfully but not maliciously, § 18.2-51.1 when done
 591 unlawfully but not maliciously, or § 18.2-54.1 or 18.2-54.2;
 - 592 f. Arson in violation of § 18.2-77 when the structure burned was occupied or a Class 3 felony
 593 violation of § 18.2-79;
 - 594 g. Any violation of § 18.2-89 or 18.2-92;
 - 595 h. Any violation of subsection A of § 18.2-374.1:1;
 - 596 i. Any violation of § 18.2-423, 18.2-423.01, 18.2-423.1, 18.2-423.2, or 18.2-433.2; or
 - 597 j. Any violation of subdivision E 2 of § 40.1-29.

598 The earning of sentence credits shall be conditioned, in part, upon full participation in and
 599 cooperation with programs to which a person is assigned pursuant to § 53.1-32.1.

600 B. For any offense other than those enumerated in subsection A for which sentence credits may be
 601 earned, earned sentence credits shall be awarded and calculated using the following four-level
 602 classification system:

- 603 1. Level I. For persons receiving Level I sentence credits, 15 days shall be deducted from the
 604 person's sentence for every 30 days served. Level I sentence credits shall be awarded to persons who
 605 participate in and cooperate with all programs to which the person is assigned pursuant to § 53.1-32.1
 606 and who have no more than one minor correctional infraction and no serious correctional infractions as
 607 established by the Department's policies or procedures.
- 608 2. Level II. For persons receiving Level II sentence credits, 7.5 days shall be deducted from the
 609 person's sentence for every 30 days served. Level II sentence credits shall be awarded to persons who
 610 participate in and cooperate with all programs, job assignments, and educational curriculums to which
 611 the person is assigned pursuant to § 53.1-32.1, but who require improvement in not more than one area
 612 as established by the Department's policies or procedures.
- 613 3. Level III. For persons receiving Level III sentence credits, 3.5 days shall be deducted from the

614 person's sentence for every 30 days served. Level III sentence credits shall be awarded to persons who
615 participate in and cooperate with all programs, job assignments, and educational curriculums to which
616 the person is assigned pursuant to § 53.1-32.1, but who require significant improvement in two or more
617 areas as established by the Department's policies or procedures.

618 4. Level IV. No sentence credits shall be awarded to persons classified in Level IV. A person will be
619 classified in Level IV if that person willfully fails to participate in or cooperate with all programs, job
620 assignments, and educational curriculums to which the person is assigned pursuant to § 53.1-32.1 or that
621 person causes substantial security or operational problems at the correctional facility as established by
622 the Department's policies or procedures.

623 C. A person's classification level under subsection B shall be reviewed at least once annually, and the
624 classification level may be adjusted based upon that person's participation in and cooperation with
625 programs, job assignments, and educational curriculums assigned pursuant to § 53.1-32.1. A person's
626 classification and calculation of earned sentence credits shall not be lowered or withheld due to a lack of
627 programming, educational, or employment opportunities at the correctional facility at which the person is
628 confined. Records from this review, including an explanation of the reasons why a person's classification
629 level was or was not adjusted, shall be maintained in the person's correctional file.

630 D. A person's classification level under subsection B may be immediately reviewed and adjusted
631 following removal from a program, job assignment, or educational curriculum that was assigned
632 pursuant to § 53.1-32.1 for disciplinary or noncompliance reasons.

633 E. A person may appeal a reclassification determination under subsection C or D in the manner set
634 forth in the grievance procedure established by the Director pursuant to his powers and duties as set
635 forth in § 53.1-10.

636 F. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under
637 § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full
638 participation in and cooperation with programs afforded to the juvenile during that portion of the
639 sentence. The Department of Juvenile Justice shall provide a report that describes the juvenile's
640 adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while
641 sentenced as a serious juvenile offender under § 16.1-285.1.

642 G. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be
643 applied to reduce the period of time a person must serve before becoming eligible for parole upon any
644 sentence.

645 2. That any person convicted of robbery under § 18.2-58 of the Code of Virginia, as it was in
646 effect prior to July 1, 2021, where such conviction would have rendered such person ineligible for
647 conditional release pursuant to § 53.1-40.02 of the Code of Virginia, as amended by this act, shall
648 be eligible for conditional release in accordance with the provisions of § 53.1-40.02 of the Code of
649 Virginia, as amended by this act, provided that such person, during the commission of such
650 robbery, did not (i) cause serious bodily injury to or the death of another person or (ii) use or
651 display a firearm in a threatening manner.

652 3. That the provisions of § 53.1-202.3 of the Code of Virginia, as amended by this act, shall apply
653 retroactively to the entire sentence of any person who is confined in a state correctional facility
654 and participating in the earned sentence credit system on July 1, 2024, who was (i) convicted of
655 robbery under § 18.2-58 of the Code of Virginia, as it was in effect prior to July 1, 2021, provided
656 that such person, during the commission of such robbery, did not (a) cause serious bodily injury
657 to or the death of another person or (b) use or display a firearm in a threatening manner or (ii)
658 convicted of robbery under subdivision B 3 or 4 of § 18.2-58 of the Code of Virginia on or after
659 July 1, 2021. If it is determined that, upon retroactive application of the provisions of § 53.1-202.3
660 of the Code of Virginia, as amended by this act, the release date of any such person passed prior
661 to the effective date of this act, the person shall be released upon approval of an appropriate
662 release plan and within 60 days of such determination unless otherwise mandated by court order;
663 however, no person shall have a claim for wrongful incarceration pursuant to § 8.01-195.11 of the
664 Code of Virginia on the basis of such retroactive application. If a person is released prior to
665 completion of any reentry programs deemed necessary by the Department of Corrections on the
666 person's most recent annual review or prior to completion of any programs mandated by court
667 order, the person shall be required to complete such programs under probation, provided that
668 probation is mandated by the court and current community resources are sufficient to facilitate
669 completion of such programs.

SENATE SUBSTITUTE HB7751