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SENATE BILL NO. 80

Offered January 10, 2024

Prefiled December 31, 2023

A BILL to amend and reenact §§ 19.2-304, 53.1-32.2, and 54.1-204 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 54.1-2409.01, relating to prisoner reentry; Department of Corrections.

Patrons—Favola and Boysko

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-304, 53.1-32.2, and 54.1-204 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 54.1-2409.01 as follows:

§ 19.2-304. Increasing or decreasing probation period and modification of conditions.

A. The court may subsequently increase ~~or decrease~~ the probation period and may revoke or modify any condition of probation, but only upon a hearing after reasonable notice to both the defendant and the attorney for the Commonwealth. *After fixing the probation period, the court may subsequently decrease the probation period if warranted by the defendant's conduct and in the interests of justice.*

B. The court shall reduce a defendant's probation period if:

1. *The defendant completes a qualifying educational activity, including obtaining a high school diploma, passing high school equivalency testing, completing 30 credits with at least a 2.0 grade point average at a postsecondary educational institution, obtaining an academic degree, obtaining a career or vocational certificate, or completing a vocational or job training program made available by the Department of Corrections or by a community provider;*

2. *The defendant maintains verifiable employment where the defendant is employed at least an average of 30 hours per week; or*

3. *The defendant completes a mental health or substance abuse treatment program.*

For every qualifying educational activity the defendant completes in accordance with subdivision 1, the court shall reduce the defendant's probation period by 60 days. For every six-month period of verifiable employment the defendant completes in accordance with subdivision 2, the court shall reduce the defendant's probation period by 30 days. For every mental health or substance abuse treatment program the defendant completes in accordance with subdivision 3, the court shall reduce the defendant's probation period by 90 days.

A defendant's probation officer shall promptly and no less than quarterly calculate any reductions for the completion of qualifying educational activities, steady employment, and treatment under this subsection. A defendant's probation officer shall verify employment through supporting documentation, which may include any record, employer letter, pay stub, contract, or other approved method of verification by the relevant local community-based probation services agency or the Department of Corrections. When the accumulation of time served on probation and any earned reduction is equal to the imposed probation term, the probation officer shall notify the court of the defendant's right to a reduction in his probation term under this subsection. Upon receipt of this information, the court shall enter an order discharging the person from probation.

§ 53.1-32.2. Reentry planning.

A. The Department shall develop and implement, in cooperation with and taking into account the individual needs and willingness to participate of the inmate, a comprehensive reentry plan for each person committed to the supervision of the Department, as soon as practicable, considering the prisoner's anticipated release date. Such plan shall identify educational, vocational, therapeutic, and other programs necessary to prepare the person for successful transition from prison to society upon the person's discharge and shall include mentor pairing to the extent possible. The Department shall coordinate any reentry programs provided through the Department pursuant to the reentry plan with any other reentry or other relevant programs offered by any public or private organization or entity at the local, state, or federal level, which are also included in the plan.

B. *The Department shall develop and implement a certificate of rehabilitation program for the purposes of assisting an inmate's successful transition from prison to society upon the person's discharge. A certificate of rehabilitation shall include the following information: (i) a general statement as to how the certificate would assist the individual and why it should be granted, including all programming completed while incarcerated; (ii) a summary of the individual's criminal history with respect to each offense, including the years sentenced and the years served for each conviction or plea*

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59 of guilty for each offense; (iii) a summary of the individual's employment history, specifying the name of
60 and dates of employment with each employer; (iv) any verifiable references and endorsements for such
61 individual; (v) the name of one or more immediate family members of the individual, or other persons
62 with whom the individual has a close relationship, who will support the individual's release and reentry;
63 and (vi) any other information required by the Department of Corrections.

64 For any person who is awarded a certificate of rehabilitation and was previously convicted of a
65 barrier crime as defined in § 19.2-392.02, such barrier crime shall no longer be considered a barrier
66 crime.

67 Any person who is convicted of an act of violence, as defined in § 19.2-297.1, shall not be eligible
68 to be awarded a certificate of rehabilitation.

69 C. In any judicial or administrative proceeding alleging negligence, a certificate of rehabilitation
70 issued pursuant to this section shall be a bar to any action alleging lack of due care in hiring,
71 retaining, licensing, leasing to, admitting to a school or program, or otherwise transacting business or
72 engaging in activity with the individual to whom the certificate of rehabilitation was issued, provided
73 that the person against whom the judicial or administrative proceeding is brought knew of the certificate
74 of rehabilitation at the time of the alleged negligence.

75 **§ 54.1-204. Prior convictions not to abridge rights.**

76 A. A person shall not be refused a license, certificate, or registration to practice, pursue, or engage in
77 any regulated occupation or profession solely because of a prior criminal conviction, unless the criminal
78 conviction directly relates to the occupation or profession for which the license, certificate, or
79 registration is sought. However, the regulatory board shall have the authority to refuse a license,
80 certificate or registration if, based upon all the information available, including the applicant's record of
81 prior convictions, it finds that the applicant is unfit or unsuited to engage in such occupation or
82 profession.

83 B. In determining whether a criminal conviction directly relates to an occupation or profession, the
84 regulatory board shall consider the following criteria:

- 85 1. The nature and seriousness of the crime;
- 86 2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;
- 87 3. The extent to which the occupation or profession might offer an opportunity to engage in further
88 criminal activity of the same type as that in which the person had been involved;
- 89 4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and
90 discharge the responsibilities of the occupation or profession;
- 91 5. The extent and nature of the person's past criminal activity;
- 92 6. The age of the person at the time of the commission of the crime;
- 93 7. The amount of time that has elapsed since the person's last involvement in the commission of a
94 crime;
- 95 8. The conduct and work activity of the person prior to and following the criminal activity; and
- 96 9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following
97 release.

98 C. A regulatory board or department may require any applicant for registration, licensure, or
99 certification to submit to fingerprinting and to provide personal descriptive information to be forwarded
100 along with the applicant's fingerprints through the Central Criminal Records Exchange to the Federal
101 Bureau of Investigation for the purpose of obtaining criminal history record information regarding such
102 applicant. Such applicant shall pay the cost of the fingerprinting or a criminal records check or both.

103 The regulatory board or department may enter into a contract to obtain the fingerprints and
104 descriptive information as required for submission to the Central Criminal Records Exchange in a
105 manner and format approved by the Central Criminal Records Exchange.

106 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that no
107 record exists, shall make a report to the regulatory board or department or their designee, who must
108 belong to a governmental entity. If an applicant is denied a registration, license, or certificate because of
109 the information appearing in his criminal history record, the regulatory board or department shall notify
110 the applicant that information obtained from the Central Criminal Records Exchange contributed to such
111 denial. The information shall not be disseminated except as provided for in this section.

112 D. A regulatory board or department shall consider the criminal information as contained in the
113 applicant's state or national criminal history in lieu of the applicant providing certified copies of such
114 court records in determining whether a criminal conviction directly relates to an occupation or profession
115 or if an applicant is unfit or unsuited to engage in an occupation or profession. The regulatory board or
116 department may request additional information from the applicant in making such determination.

117 E. A regulatory board or department shall publish a list of those criminal offenses that directly
118 relate to an occupation or profession within the regulatory powers of such board or department.

119 **§ 54.1-2409.01. Prior convictions not to abridge rights.**

120 A. Notwithstanding any provision of law or regulation to the contrary, a person shall not be refused

121 a license, certificate, or registration to practice, pursue, or engage in any regulated occupation or
122 profession within the Department of Health Professions solely because of a prior criminal conviction,
123 unless the criminal conviction directly relates to the occupation or profession for which the license,
124 certificate, or registration is sought.

125 B. In determining whether a criminal conviction directly relates to an occupation or profession, the
126 regulatory board within the Department of Health Professions shall consider the following criteria:

- 127 1. The nature and seriousness of the crime;
- 128 2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;
- 129 3. The extent to which the occupation or profession might offer an opportunity to engage in further
130 criminal activity of the same type as that in which the person had been involved;
- 131 4. The relationship of the crime to the ability, capacity, or fitness required to perform the duties and
132 discharge the responsibilities of the occupation or profession;
- 133 5. The extent and nature of the person's past criminal activity;
- 134 6. The age of the person at the time of the commission of the crime;
- 135 7. The amount of time that has elapsed since the person's last involvement in the commission of a
136 crime;
- 137 8. The conduct and work activity of the person prior to and following the criminal activity; and
- 138 9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following
139 release.

140 C. A regulatory board within the Department of Health Professions may require any applicant for
141 registration, licensure, or certification to submit to fingerprinting and to provide personal descriptive
142 information to be forwarded along with the applicant's fingerprints through the Central Criminal
143 Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining criminal history
144 record information regarding such applicant. Such applicant shall pay the cost of the fingerprinting or a
145 criminal records check or both.

146 The regulatory board within the Department of Health Professions may enter into a contract to
147 obtain the fingerprints and descriptive information as required for submission to the Central Criminal
148 Records Exchange in a manner and format approved by the Central Criminal Records Exchange.

149 The Central Criminal Records Exchange, upon receipt of an applicant's record or notification that
150 no record exists, shall make a report to the regulatory board or department or its designee, who shall
151 belong to a governmental entity. If an applicant is denied a registration, license, or certificate because
152 of the information appearing in his criminal history record, the regulatory board or department shall
153 notify the applicant that information obtained from the Central Criminal Records Exchange contributed
154 to such denial. The information shall not be disseminated except as provided for in this section.

155 D. A regulatory board within the Department of Health Professions shall consider the criminal
156 information as contained in the applicant's state or national criminal history in lieu of the applicant
157 providing certified copies of such court records in determining whether a criminal conviction directly
158 relates to an occupation or profession or if an applicant is unfit or unsuited to engage in an occupation
159 or profession. The regulatory board or department may request additional information from the
160 applicant in making such determination.

161 E. A regulatory board within the Department of Health Professions shall publish a list of those
162 criminal offenses that directly relate to an occupation or profession within the regulatory powers of
163 such board or department.