

HOUSE BILL NO. 457

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Callsen)

A BILL to amend and reenact § 19.2-304 of the Code of Virginia, relating to decreasing probation period; criteria for mandatory reduction.

**Be it enacted by the General Assembly of Virginia:**

**1. That § 19.2-304 of the Code of Virginia is amended and reenacted as follows:**

**§ 19.2-304. Increasing or decreasing probation period and modification of conditions; mandatory reduction in probation period.**

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 without a hearing if warranted by the defendant's conduct and in the interests of justice.

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

1. The defendant completes a qualifying educational activity, including obtaining a high school diploma, passing high school equivalency testing, completing 15 credits with at least a 2.0 grade point average at a postsecondary educational institution, obtaining an academic degree, completing a peer recovery specialist training program approved by the Department of Behavioral Health and Developmental Services, completing a state-certified training program, or completing a vocational or job training program made available by the Department of Corrections or by a community provider approved by the Department of Corrections;

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

27           3. The defendant is in compliance with any state-certified or state-approved mental health or  
28 substance abuse treatment program or successfully completes a state-certified or state-approved mental  
29 health or substance abuse treatment program.

30           A defendant shall not begin accruing credit until the first day of the first full month that such  
31 defendant is on supervised probation. A defendant may accrue credits from each of subdivisions 1, 2, and  
32 3 in each six-month reporting period. Credits shall not accrue during any calendar month in which the  
33 defendant is found in violation of his supervised probation, unless such violation is a technical violation  
34 and the probation officer for such defendant determines that there exists a compelling reason to award  
35 credits for such period of time. For every six-month period of qualifying educational activity the defendant  
36 completes in accordance with subdivision 1, the court shall reduce the defendant's supervised probation  
37 period by 60 days. For every six-month period of verifiable employment the defendant completes in  
38 accordance with subdivision 2, the court shall reduce the defendant's supervised probation period by 30  
39 days. For every six-month period of qualifying mental health or substance abuse treatment program  
40 compliance or for completion of a qualifying mental health or substance abuse treatment program in  
41 accordance with subdivision 3, the court shall reduce the defendant's supervised probation period by 60  
42 days.

43           A defendant's probation officer shall promptly and no less than quarterly calculate any reductions  
44 to such defendant's supervised probation for any qualifying evidence-based recidivism-reducing activities,  
45 including completing qualifying educational activities, maintaining verifiable employment, and  
46 completing or complying with any state-certified or state-approved mental health or substance abuse  
47 treatment program under this subsection. A defendant's probation officer shall verify employment through  
48 supporting documentation, which may include any record, employer letter, pay stub, contract, or other  
49 approved method of verification by the probation services agency or the Department of Corrections. A  
50 defendant's probation officer shall verify the education and vocation compliance or completion through  
51 supporting documentation, which may include any record, facilitator or program letter, report card,  
52 progress report, or other approved method of verification by the probation services agency or Department  
53 of Corrections. A defendant's probation officer shall verify the mental health or substance abuse treatment

54 program compliance or completion through supporting documentation, which may include any record,  
55 facilitator or program letter, progress report, sign-in sheet, or other approved method of verification by  
56 the probation services agency or the Department of Corrections.

57 When the accumulation of time served on probation and any earned reduction is equal to the  
58 imposed supervised probation term, and the defendant has satisfied all nonmonetary conditions of his  
59 supervised probation, including any court-ordered programming or community service hours, the  
60 probation officer shall notify the court of the defendant's right to a reduction in his probation term under  
61 this subsection. Upon receipt of this information, the court shall enter an order discharging the person  
62 from probation.

63 C. The provisions of subsection B shall not apply to any person sentenced pursuant to § 19.2-303.3  
64 and subject to supervised probation by a local community-based probation services agency established  
65 pursuant to Article 9 (§ 9.1-173 et seq.) of Chapter 1 of Title 9.1.

66 D. No defendant shall have his probation reduced pursuant to this section for his participation in  
67 any court-ordered treatment.

68 E. Nothing in this section shall be construed to limit the court's ability to reduce a defendant's  
69 period of probation or discharge such defendant from probation under any other provision of law.

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