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HOUSE BILL NO. 2180

House Amendments in [] — January 21, 2003

A BILL to amend and reenact §§ 53.1-116 and 53.1-129 of the Code of Virginia, relating to certain jail policies.

Patron Prior to Engrossment—Delegate Kilgore

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-116 and 53.1-129 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-116. What records and policy jailer shall keep; how time deducted or added for felons and misdemeanants; payment of fine and costs by person committed to jail until he pays.

A. The jailer shall keep a (i) record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail. The jailer shall keep a; (ii) record of each prisoner; and (iii) [*formal*] written policy stating the criteria and conditions of earned credit in the facility.

Each prisoner ~~not eligible for parole under §§ 53.1-151, 53.1-152 or § 53.1-153 sentenced to 12 months or less for a misdemeanor or any combination of misdemeanors~~ shall earn good conduct credit at the rate of ~~one~~ 1 day for each ~~one~~ 1 day served, including all days served while confined in jail prior to conviction and sentencing, in which the prisoner has not violated the written rules and regulations of the jail unless a mandatory minimum sentence is imposed by law. Prisoners eligible for parole under §§ 53.1-151, 53.1-152 or § 53.1-153 shall earn good conduct credit at a rate of ~~fifteen~~ 15 days for each ~~thirty~~ 30 days served with satisfactory conduct.

The jailer may grant the prisoner additional credit for performance of institutional work assignments or participation in a local work force program established under § 53.1-128 at the rate of ~~five~~ 5 days for every ~~thirty~~ 30 days served. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail. For each violation of the rules prescribed herein, the time so deducted shall be added until it equals the full sentence imposed upon the prisoner by the court.

However, any prisoner committed to jail upon a felony offense committed on or after January 1, 1995, shall not earn good conduct credit, sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

B. Notwithstanding the provisions of § 19.2-350, in the event a person who was committed to jail to be therein confined until he pays a fine imposed on him by the court in which he was tried should desire to pay such fine and costs, he may pay the same to the person in charge of the jail. The person receiving such moneys shall execute and deliver an official receipt therefor and shall promptly transmit the amount so paid to the clerk of the court which imposed the fine and costs. Such clerk shall give him an official receipt therefor and shall properly record the receipt of such moneys.

C. The administrator of a local or regional jail shall not assign a person to a home/electronic incarceration program pursuant to subsection C of § 53.1-131.2 in a locality which has a jail operated by a sheriff, without the consent of the sheriff.

§ 53.1-129. Specific order permitting a prisoner to work on state, county, city, town, certain private property or nonprofit organization property; bond of person in charge of prisoners.

The circuit court of any county or city may, by *specific* order entered of record *for an identified individual prisoner*, allow ~~persons~~ a person confined in the jail of such county or city who ~~are~~ is awaiting disposition of, or serving sentences imposed for, misdemeanors or felonies to work on (i) state, county, city or town property, (ii) any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501 (c) (3) or (c) (4) and that is organized and operated exclusively for charitable or social welfare purposes on a voluntary basis with the consent of the county, city, town or state agency or the local public service authority or upon the request of the nonprofit organization involved, or (iii) private property that is part of a community improvement project sponsored by a locality or that has structures that are found to be public nuisances pursuant to §§ 15.2-900 and 15.2-906 provided that the court has reviewed and approved the project for the purposes herein and permits the prisoner to work on such project. The district court of any county or city may, *by specific order for an identified individual prisoner*, allow ~~persons~~ a person confined in the jail of such county or city who ~~are~~ is awaiting disposition of, or serving sentences imposed for, misdemeanors to work on (a) state, county, city or town property, (b) any property owned by a nonprofit organization that is exempt from taxation

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60 under 26 U.S.C. § 501 (c) (3) or (c) (4) and that is organized and operated exclusively for charitable or
61 social welfare purposes on a voluntary basis with consent of the county, city, town or state agency or
62 the local public service authority or upon the request of the nonprofit organization involved, or (c)
63 private property that is part of a community improvement project sponsored by a locality or that has
64 structures that are found to be public nuisances pursuant to §§ 15.2-900 and 15.2-906 provided that the
65 court has reviewed and approved the project for the purposes herein and permits the prisoner to work on
66 such project. Prisoners performing work as provided in this paragraph may receive credit on their
67 respective sentences for the work done, whether such sentences are imposed prior or subsequent to the
68 work done, as the court orders. *For all offenses committed on or after July 1, 2003, any order that does*
69 *not specifically identify individual prisoners shall be void.*

70 The court may, by *specific* order entered of record *for an identified individual prisoner*, require a
71 person convicted of a felony to work on state, county, city or town property, with the consent of the
72 county, city, town or state agency or the local public service authority involved, for such credit on his
73 sentence as the court orders.

74 In the event that a person other than the sheriff or jail superintendent is designated by the court to
75 have charge of such prisoners while so working, the court shall require a bond of the person, in an
76 amount to be fixed by the court, conditioned upon the faithful discharge of his duties. Neither the sheriff
77 nor the jail superintendent shall be held responsible for any acts of omission or commission on the part
78 of such person.

79 Any person committed to jail upon a felony offense committed on or after January 1, 1995, who
80 receives credit on his sentence as provided in this section shall not be entitled to good conduct credit,
81 sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that
82 permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any
83 court contrary to the provisions of Article 4 shall be deemed null and void.