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HOUSE BILL NO. 230

Offered January 11, 2006

Prefiled January 3, 2006

A BILL to amend and reenact § 22.1-341 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 53.1-151.1 and 53.1-151.2, relating to the Department of Corrections; eligibility for good conduct allowance; literacy and education.

Patrons—Jones, D.C. and Ware, O.

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-341 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 53.1-151.1 and 53.1-151.2 as follows:

§ 22.1-341. Supervision of Department; composition of Board; terms and vacancies.

The Board of the Rehabilitative School Authority is continued and shall hereafter be known as the Board of Correctional Education. The supervision of the Department shall be vested in the Board of Correctional Education. The Board shall be composed of seven members who shall be appointed by the Governor, subject to confirmation by the General Assembly. *In making appointments, the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. The appointees shall include three educators, one with experience working in special education as defined in § 22.1-213 and two with experience working with specific learning disabilities as defined in § 22.1-213; one elected official; and one citizen with an immediate family member incarcerated within the Commonwealth of Virginia.* Members shall be appointed for terms of four years each except that whenever a vacancy occurs other than by expiration of a term, the Governor shall appoint a member for the remainder of that term. No member shall serve more than two consecutive four-year terms. The chairman of the Virginia Parole Board, two persons designated by the Director of the Department of Corrections and the Director of Juvenile Justice and the director of Career and Technical Education in the Department of Education shall serve as ex officio members without vote.

§ 53.1-151.1. Eligibility for good conduct allowance; application.

A. Beginning July 1, 2006, each person who on or after January 1, 1995, has been convicted of a felony and each person convicted of a misdemeanor and to whom the provisions of §§ 53.1-151, 53.1-152 or 53.1-153 apply may be entitled to good conduct allowance not to exceed the amount set forth below. Such good conduct allowance shall be applied to reduce the person's maximum term of confinement while he is confined in any state correctional facility.

Any person who, on or after January 1, 1995, has been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration, or aggravated sexual battery, and any person who has been sentenced to a term of life imprisonment or two or more life sentences shall be classified within the system established by § 53.1-201. Such person shall be eligible for no more than five days good conduct allowance for each 30 days served, regardless of the class to which he is assigned. Additional good conduct allowance may be approved by the Board of Corrections for such persons in accordance with § 53.1-191.

B. Regulations approved by the Board shall govern the earning of good conduct allowance. The regulations shall require, as a condition for earning the allowance, that a prisoner who is serving a term of imprisonment as outlined above may receive credit toward the service of the prisoner's sentence, beyond the time served, of up to 180 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Department of Corrections that, during that year, the prisoner has displayed exemplary compliance with institutional disciplinary regulations. If the Department of Corrections determines that, during that year, the prisoner has not satisfactorily complied with such institutional regulations, the prisoner shall receive no such credit toward service of the prisoner's sentence or shall receive such lesser credit as the Department of Corrections determines to be appropriate. In awarding credit under this section, the Department of Corrections shall consider whether the prisoner, during the relevant period, has earned, or is making satisfactory progress toward earning, a high school diploma or an equivalent degree or a certificate through an accredited vocational training program. Credit that has not been earned may not later be granted. Credit for the last year or portion of a year of the term of imprisonment shall be prorated and credited within the last six weeks of the sentence. Credit awarded under this section shall vest on the last day of each calendar year. Exemptions to the general educational development

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59 requirement may be made as deemed appropriate based upon the determination and recommendation of
60 the Department of Correctional Education.

61 C. Good conduct allowances shall be based upon a four-level classification system. Such system shall
62 be established as follows:

63 1. Prisoners classified as Class I shall earn good conduct allowance at a rate of no more than 15
64 days credit for each 30 days served. Class I shall be reserved for persons whose initiative, conduct, and
65 performance in their assignments are exemplary and who have earned, or are making satisfactory
66 progress toward earning, a high school diploma or an equivalent degree or certification through an
67 accredited vocational training program. Consideration for Class I credit shall be given to persons who
68 perform in assignments requiring a high degree of trust, extra long hours, or specialized skills.

69 2. Prisoners classified as Class II shall earn good conduct allowance at a rate of no more than 10
70 days credit for each 30 days served. Class II shall be reserved for persons whose initiative, conduct,
71 and performance in their assignments are satisfactory. Consideration for Class II credit shall be given
72 to persons who require moderate supervision in their assignments and whose assignments require
73 responsibility in the care and maintenance of property.

74 3. Prisoners classified as Class III shall earn good conduct allowance at a rate of no more than five
75 days credit for each 30 days served. Class III shall be reserved for persons whose conduct and
76 performance in their assignments are marginal. Persons requiring intensive supervision in their
77 assignments and exhibiting minor disciplinary problems may be assigned to Class III.

78 4. Prisoners classified as Class IV shall earn good conduct allowance at a rate of no credit for each
79 30 days served. Class IV shall be reserved for persons who are in isolation or segregation status for
80 disciplinary or security reasons and persons whose conduct and performance in their assignments are so
81 unsatisfactory as to eliminate consideration for good conduct allowance.

82 Persons may be reclassified for an increase or decrease in class according to rules and regulations
83 established pursuant to law.

84 D.1. The Secretary of Public Safety shall direct the Department of Corrections and the Department
85 of Correctional Education to have a mandatory functional literacy program as defined in §§ 22.1-342,
86 22.1-344 and 22.1-344.1 for all mentally capable inmates who are not functionally literate in each state
87 correctional institution by January 1, 2007.

88 2. Each mandatory functional literacy program shall include a requirement that each inmate
89 participate in such program for a mandatory period sufficient to provide the inmate with an adequate
90 opportunity to achieve functional literacy, and appropriate incentives that lead to successful completion
91 of such programs shall be developed and implemented.

92 3. As used in this section, the term "functional literacy" has the same meaning as provided in
93 § 22.1-344.1.

94 4. Non-English-speaking inmates shall be required to participate in an English as a Second
95 Language program, if available, until they function at the equivalence of the eighth grade on a
96 nationally recognized educational achievement test.

97 5. The principal of each Department of Correctional Education adult school shall have the authority
98 to grant an exemption for participation in the functional literacy program for good cause as determined
99 by the Board of Correctional Education and documented on an individual basis.

100 E. Upon receipt by the Department, persons who have been confined while awaiting transfer to a
101 state correctional facility shall be credited with such time as is certified to the Department in
102 accordance with §§ 53.1-116 and 53.1-129 and as is otherwise provided by law. Certified good conduct
103 allowance shall be applied to reduce the person's maximum term of confinement, and one-half of such
104 credit shall be applied to reduce the period of time the person shall serve before being eligible for
105 parole.

106 After admission to a state correctional facility, a person shall be credited at the rate of 10 days for
107 each 30 days of time served with satisfactory conduct. The person shall remain in this credit level until
108 classified in accordance with the provisions herein.

109 § 53.1-151.2. Eligibility for additional Reading for Good Time credits; application.

110 A. Beginning July 1, 2006, and notwithstanding any other provision of law, every person who has
111 been convicted of a felony and every person convicted of a misdemeanor and to whom the provisions of
112 § 53.1-151, 53.1-152, or 53.1-153 apply, may be entitled to earn additional good conduct allowance not
113 to exceed the amount set forth below. Such good conduct allowance shall be applied to reduce the
114 person's maximum term of confinement while he is confined in any state correctional facility.

115 Any person who, on or after July 1, 1993, has been sentenced upon a conviction of murder in the
116 first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual
117 penetration or aggravated sexual battery, and any person who has been sentenced to a term of life
118 imprisonment or two or more life sentences shall be classified within the system established by
119 § 53.1-201. Such person shall be eligible for no more than five days good conduct credit for each 30
120 days served. Additional good conduct credits may be approved by the Board of Corrections for such

persons in accordance with § 53.1-191.

B. Regulations approved by the Board shall govern the earning of additional credits for reading. The regulations shall require, as a condition for earning the credits, that a prisoner who is serving a term of imprisonment as outlined above may receive credit toward the service of the prisoner's sentence, beyond the time served and in addition to any other credit or allowance earned, of up to 10 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first year of the term, subject to determination by the Department of Corrections that, during that year, the prisoner has displayed compliance with institutional disciplinary regulations and has satisfactorily completed the requirements of the Reading for Good Time program. In awarding credit under this section, the Department of Corrections shall consider whether the prisoner, during the relevant period, has satisfactorily participated in the Reading for Good Time program by completely reading and passing a comprehension test on approved novels or literature as determined by the Department of Correctional Education. Credit that has not been earned may not later be granted. Credit awarded under this section shall vest on the last day of each calendar year.

C. Credits under the Reading for Good Time program shall be awarded on the basis of one day's credit for every 1,000 pages read of approved novels or compilations of literature scored under the program. Scoring is determined by the Department of Correctional Education based upon the completion of reading the approved novels or literature and passing comprehension testing with a score of 70% for the approved material.

D. The Secretary of Public Safety shall direct the Department of Corrections and the Department of Correctional Education to have in effect a Reading for Good Time program with appropriate testing materials and criteria in each state correctional institution by July 1, 2006.