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HOUSE BILL NO. 244

Offered January 13, 2010

Prefiled January 11, 2010

A BILL to amend and reenact §§ 18.2-474 and 53.1-203 of the Code of Virginia, relating to punishment for contraband and certain conduct in correctional facilities.

Patron—Janis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-474 and 53.1-203 of the Code of Virginia are amended and reenacted as follows:

§ 18.2-474. Delivery of articles to prisoners.

~~No person shall~~ Any person who willfully in any manner deliver delivers, or attempt attempts to deliver, to any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, any article of any nature whatsoever, without first securing the permission of the person in whose charge such prisoner is, and who may in his discretion grant or refuse permission: ~~Any person violating this section shall be~~ is guilty of a Class 1 misdemeanor. Any prisoner confined under authority of the Commonwealth of Virginia, or of any political subdivision thereof, who willfully in any manner brings into the facility in which he is confined, or attempts to bring into the facility, any article of any nature whatsoever, without first securing the permission of the person in whose charge such prisoner is, and who may in his discretion grant or refuse permission is guilty of a Class 1 misdemeanor.

Nothing herein contained shall be construed to repeal or amend § 18.2-473.

§ 53.1-203. Felonies by prisoners; penalties.

It shall be is unlawful for a prisoner in a state, local or community correctional facility or in the custody of an employee thereof to:

1. Escape from a correctional facility or from any person in charge of such prisoner;
2. Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such facility less secure as a place of confinement;
3. Make, procure, secrete or have in his possession any instrument, tool or other thing for the purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;
4. Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not authorized by the superintendent or sheriff which is capable of causing death or bodily injury;
5. Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully received;
6. Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of the Drug Control Act (§ 54.1-3400 et seq.) or marijuana;
7. Introduce into a correctional facility or have in his possession firearms or ammunition for firearms;
8. ~~Willfully~~ Procure, sell, secrete or have in his possession any explosive device or substance, or burn or destroy by use of any explosive device or substance, in whole or in part, or cause to be so burned or destroyed, any personal property, within any correctional facility;
9. Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers within any correctional facility; or
10. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

For violation of any of the provisions of subdivisions 1, 2, 3, 5, or 10 of this section, ~~except subdivision 6,~~ the prisoner shall be is guilty of a Class 6 felony. For a violation of subdivision 6, he shall be is guilty of a Class 5 felony. For a violation of subdivisions 4, 7, 8 or 9, he is guilty of a Class 3 felony. If the violation is of subdivision 1 of this section and the escapee is a felon, he shall be sentenced to a mandatory minimum term of confinement of one year, which shall be served consecutively with any other sentence. The prisoner shall, upon conviction of escape, immediately commence to serve such escape sentence, and he shall not be eligible for parole during such period. Any prisoner sentenced to life imprisonment who escapes shall not be eligible for parole. No part of the time served for escape shall be credited for the purpose of parole toward the sentence or sentences, the service of which is interrupted for service of the escape sentence, nor shall it be credited for such purpose toward any other sentence.

2. That the provisions of this act may result in a net increase in periods of imprisonment or

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59 commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at
60 least \$266,765 for periods of imprisonment in state adult correctional facilities and cannot be
61 determined for periods of commitment to the custody of the Department of Juvenile Justice.