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HOUSE BILL NO. 1064

Offered January 8, 2014

A *BILL to amend and reenact § 53.1-10 of the Code of Virginia, relating to powers and duties of the Director; Department of Corrections; hearing-impaired prisoners.*

 Patron—Ward

 Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:**1. That § 53.1-10 of the Code of Virginia is amended and reenacted as follows:****§ 53.1-10. Powers and duties of Director.**

The Director shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its system of state correctional facilities;
2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;
3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;
4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8. Such system shall include, as applicable, elementary, secondary, post-secondary, career and technical education, adult, and special education schools.
 - a. The Director shall employ a ~~Superintendent~~ *Superintendent* who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.
 - b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.
 - c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade or GED level. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment in college or an accredited vocational training program or other accredited continuing education program.
 - d. For the purposes of this section, the term "functional literacy" shall mean those educational skills necessary to function independently in society, including, but not limited to, reading, writing, comprehension, and arithmetic computation.
 - e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent shall create a system for identifying prisoners with learning disabilities.
5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;
 - b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;
6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the United States government and agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Director shall have the power to comply with such

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59 conditions and execute such agreements as may be necessary, convenient or desirable, consistent with
60 applicable standards and goals of the Board;

61 7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are
62 adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race
63 or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the
64 types of and extent to which health-related problems are prevalent among such persons. Beginning July
65 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor
66 and the General Assembly at each regular session of the General Assembly thereafter. The report shall
67 be submitted as provided in the procedures of the Division of Legislative Automated Systems for the
68 processing of legislative documents and reports;

69 8. To make application to the appropriate state and federal entities so as to provide any prisoner who
70 is committed to the custody of the state a Department of Motor Vehicles approved identification card
71 that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the
72 Commonwealth, and a social security card from the Social Security Administration;

73 9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list
74 of all identified criminal gang members incarcerated in state correctional institutions. The list shall
75 contain identifying information for each criminal gang member, as well as his criminal record;

76 10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that
77 occurred in a state correctional facility, of that defendant's known gang membership. The notice shall
78 contain identifying information for each criminal gang member as well as his criminal record; ~~and~~

79 11. To designate employees of the Department with internal investigations authority to have the same
80 power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior
81 affecting the operations of the Department. Such employees shall be subject to any minimum training
82 standards established by the Department of Criminal Justice Services under § 9.1-102 for
83 law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision.
84 Nothing in this section shall be construed to grant the Department any authority over the operation and
85 security of local jails not specified in any other provision of law. The Department shall investigate
86 allegations of criminal behavior in accordance with a written agreement entered into with the
87 Department of State Police. The Department shall not investigate any action falling within the authority
88 vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title
89 2.2 unless specifically authorized by the Office of the State Inspector General; *and*

90 12. *To make available qualified interpreters for hearing-impaired prisoners within state, local and*
91 *regional correctional facilities.*