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SENATE BILL NO. 1164

Offered January 14, 2015

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A BILL to amend and reenact §§ 19.2-316.3, 19.2-354, 53.1-1, 53.1-5, 53.1-5.1, 53.1-8, 53.1-10, 53.1-18, 53.1-19, 53.1-30, 53.1-32, 53.1-32.1, 53.1-37, 53.1-42, 53.1-43, 53.1-60, 53.1-67.1, 53.1-131, 53.1-131.2, 53.1-133.03, 53.1-145, 53.1-150.1, 53.1-154.1, 53.1-164, 53.1-191, 53.1-200, 53.1-202.4, and 53.1-266 of the Code of Virginia, relating to the Board of Corrections; Department of Corrections; powers and duties.

Patron—Watkins

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-316.3, 19.2-354, 53.1-1, 53.1-5, 53.1-5.1, 53.1-8, 53.1-10, 53.1-18, 53.1-19, 53.1-30, 53.1-32, 53.1-32.1, 53.1-37, 53.1-42, 53.1-43, 53.1-60, 53.1-67.1, 53.1-131, 53.1-131.2, 53.1-133.03, 53.1-145, 53.1-150.1, 53.1-154.1, 53.1-164, 53.1-191, 53.1-200, 53.1-202.4, and 53.1-266 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-316.3. Eligibility for participation in diversion center incarceration program; evaluation; sentencing; withdrawal or removal from program; payment for costs.

A. A defendant (i) who otherwise would have been sentenced to incarceration for a nonviolent felony as defined in § 19.2-316.1 and who the court determines requires more security or supervision than provided by intensive probation supervision or (ii) whose suspension of sentence would otherwise be revoked after a finding that the defendant has violated the terms and conditions of probation for a nonviolent felony as defined in § 19.2-316.1, may be considered for commitment to a diversion center established under § 53.1-67.7 as follows:

1. Following conviction and prior to imposition of sentence or following a finding that the defendant's probation should be revoked, upon motion of the defendant or the attorney for the Commonwealth or upon the court's own motion, the court may order such defendant committed to the Department of Corrections for a period not to exceed 45 days from the date of commitment for evaluation and diagnosis by the Department to determine suitability for participation in the Diversion Center Incarceration Program. The evaluation and diagnosis may be conducted by the Department at any state or local correctional facility, probation and parole office, or other location deemed appropriate by the Department. When a defendant who has not been charged with a new criminal offense and who may be subject to a revocation of probation, scores incarceration on the probation violation guidelines and agrees to participate, the probation and parole officer, with the approval of the court, may commit the defendant to the Department for such evaluation, for a period not to exceed 45 days.

2. Upon determination that (i) such commitment is in the best interest of the Commonwealth and the defendant and (ii) facilities are available for the confinement of the defendant, the Department shall recommend to the court in writing that the defendant be committed to the Diversion Center Incarceration Program.

3. Upon receipt of such a recommendation and a determination by the court that the defendant will benefit from the program and is capable of returning to society as a productive citizen following successful completion of the program, and if the defendant would otherwise be committed to the Department, the court (i) shall impose sentence, suspend the sentence, and place the defendant on probation pursuant to this section or (ii) following a finding that the defendant has violated the terms and conditions of his probation previously ordered, shall place the defendant on probation pursuant to this section. Such probation shall be conditioned upon the defendant's entry into and successful completion of the Diversion Center Incarceration Program. The court shall order that, upon successful completion of the program, the defendant shall be released from confinement and be under intensive probation supervision for a period to be specified by the court followed by an additional period of regular probation of not less than one year. The court shall further order that the defendant, prior to release from confinement, shall (a) make reasonable efforts to secure and maintain employment, (b) comply with a plan of restitution or community service, (c) comply with a plan for payment of fines, if any, and costs of court, and (d) undergo substance abuse treatment, if necessary. The court may impose such other terms and conditions of probation as it deems appropriate. A sentence to the Diversion Center Incarceration Program shall not be imposed in addition to an active sentence to a state correctional facility.

4. Upon the defendant's (i) voluntary withdrawal from the program, (ii) removal from the program by

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59 the Department for intractable behavior as defined in § 19.2-316.1, or (iii) failure to comply with the
60 terms and conditions of probation, the court shall cause the defendant to show cause why his probation
61 and suspension of sentence should not be revoked. Upon a finding that the defendant voluntarily
62 withdrew from the program, was removed from the program by the Department for intractable behavior,
63 or failed to comply with the terms and conditions of probation, the court may revoke all or part of the
64 probation and suspended sentence, and commit the defendant as otherwise provided in this chapter.

65 B. Any offender as described in § 19.2-316.1 paroled under § 53.1-155 or mandatorily released
66 under § 53.1-159 and for whom probable cause that a violation of parole or of the terms and conditions
67 of mandatory release, other than the occurrence of a new felony or Class 1 or Class 2 misdemeanor, has
68 been determined under § 53.1-165, may be considered by the Parole Board for commitment to a
69 diversion center as established under § 53.1-67.7 as follows:

70 1. The Parole Board or its authorized hearing officer, with the violator's consent or upon receipt of a
71 defendant's written voluntary agreement to participate form from the probation and parole officer, may
72 order the violator to be evaluated and diagnosed by the Department of Corrections to determine
73 suitability for participation in the Diversion Center Incarceration Program. The evaluation and diagnosis
74 may be conducted by the Department at any state or local correctional facility, probation or parole
75 office, or other location deemed appropriate by the Department.

76 2. Upon determination that (i) such commitment is in the best interest of the Commonwealth and the
77 violator and (ii) facilities are available for the confinement of the violator, the Department shall
78 recommend to the Parole Board in writing that the violator be committed to the Diversion Center
79 Incarceration Program. The Department shall have the final authority to determine an individual's
80 suitability for the program.

81 3. Upon receipt of such a recommendation and a determination by the Parole Board that the violator
82 will benefit from the program and is capable of returning to society as a productive citizen following
83 successful completion of the program and if the violator would otherwise be committed to the
84 Department, the Parole Board shall restore the violator to parole supervision conditioned upon entry into
85 and successful completion of the Diversion Center Incarceration Program. The Parole Board shall order
86 that, upon successful completion of the program, the violator shall be placed under parole supervision
87 for a period of not less than one year. The Parole Board may impose such other terms and conditions of
88 parole or mandatory release as it deems appropriate. The time spent in the program shall not be counted
89 as service of any part of a term of imprisonment for which he was sentenced upon his conviction.

90 4. Upon the violator's (i) voluntary withdrawal from the program, (ii) removal from the program by
91 the Department for intractable behavior as defined in § 19.2-316.1, or (iii) failure to comply with the
92 terms and conditions of parole or mandatory release, the Parole Board may revoke parole or mandatory
93 release and recommit the violator as provided in § 53.1-165.

94 C. A person sentenced pursuant to this article shall be required to pay an amount to be determined
95 by the Board of Corrections pursuant to regulation *Director of the Department of Corrections* to defray
96 the cost of his keep.

97 **§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or**
98 **restitution in installments or upon other terms and conditions; community work in lieu of**
99 **payment.**

100 A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of
101 the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a
102 juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to
103 make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the
104 court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the
105 defendant may be required to pay in deferred payments or installments. The court may authorize the
106 clerk to establish and approve the conditions of all deferred or installment payment agreements, pursuant
107 to guidelines established by the court. As a condition of every such agreement, a defendant who enters
108 into an installment or deferred payment agreement shall promptly inform the court of any change of
109 mailing address during the term of the agreement. If the defendant is unable to make payment within 30
110 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of
111 management of the defendant's account until such account is paid in full. This one-time fee shall not
112 apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4,
113 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms
114 for payment if the defendant participates in a program as provided in subsection B or C. The court, if
115 such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

116 B. When a person sentenced to the Department of Corrections or a local correctional facility owes
117 any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in
118 any work release, home/electronic incarceration or nonconsecutive days program as set forth in
119 § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in
120 accordance with his installment or deferred payment agreement while participating in such program. If,

after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations *and the Department of Corrections shall issue directives and develop operating procedures as defined in § 53.1-1* governing the receipt of wages paid to persons participating in such programs, the withholding of payments and the disbursement of appropriate funds.

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

§ 53.1-1. Definitions.

As used in this title unless the context requires otherwise or it is otherwise provided:

"Board" or "State Board" means the State Board of Corrections.

"Community correctional facility" means any group home, halfway house or other physically unrestricting facility used for the housing, treatment or care of adult offenders established or operated with funds appropriated to the Department of Corrections from the state treasury and maintained or operated by any political subdivision, combination of political subdivisions or privately operated agency within the Commonwealth.

"Community supervision" means probation, parole, postrelease supervision, programs authorized under the Comprehensive Community Corrections Act for local responsible offenders, and programs authorized under Article 7 (§ 53.1-128 et seq.) of Chapter 3 of this title.

"Correctional officer" means a duly sworn employee of the Department of Corrections whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any state correctional facility.

"Department" means the Department of Corrections.

"Deputy sheriff" means a duly sworn officer appointed by a sheriff pursuant to § 15.2-1603 whose normal duties include, but are not limited to, maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility and may include those duties of a jail officer.

"Directives and operating procedures" means specific written protocols that provide for the implementation and uniform application of statutes pertaining to the responsibilities of the Department.

"Director" means the Director of the Department of Corrections.

"Jail officer" means a duly sworn employee of a local correctional facility, except for deputy sheriffs, whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility. This definition in no way limits any authority otherwise granted to a duly sworn deputy sheriff whose duties may include those of a jail officer.

"Local correctional facility" means any jail, jail farm or other place used for the detention or incarceration of adult offenders, excluding a lock-up, which is owned, maintained or operated by any political subdivision or combination of political subdivisions of the Commonwealth.

"Lock-up" means a facility whose primary use is to detain persons for a short period of time as determined by the Board.

182 "State correctional facility" means any correctional center or correctional field unit used for the
183 incarceration of adult offenders established and operated by the Department of Corrections, or operated
184 under contract pursuant to § 53.1-262. This term shall include "penitentiary" whenever used in this title
185 or other titles of the Code.

186 **§ 53.1-5. Powers and duties of Board.**

187 The Board shall have the following powers and duties:

188 1. To develop and establish operational and fiscal standards governing the operation of local, regional
189 and community correctional facilities;

190 2. To advise the Governor and Director on matters relating to corrections;

191 3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the
192 provisions of this title and other laws of the Commonwealth pertaining to local, regional and community
193 correctional facilities; *and*

194 4. To ensure the development of programs to educate citizens and elicit public support for the
195 activities of the Department; *and*

196 ~~5. To establish and promulgate regulations regarding the provision of educational and vocational
197 programs within the Department.~~

198 **§ 53.1-5.1. Department to establish human research subject committee.**

199 ~~The Board~~ *Department* shall ~~promulgate regulations pursuant to the Administrative Process Act~~
200 ~~(§ 2.2-4000 et seq.) develop operating procedures~~ to effectuate the provisions of Chapter 5.1
201 ~~(§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or~~
202 ~~authorized by the Department. The regulations procedures~~ shall require the human research committee to
203 submit to the Governor, the General Assembly, and the Director or his designee at least annually a
204 report on the human research projects reviewed and approved by the committee and shall require the
205 committee to report any significant deviations from the proposals as approved.

206 **§ 53.1-8. Department of Corrections.**

207 There shall be in the executive department a Department of Corrections responsible to the Governor.
208 The Department shall be under the supervision and management of the Director. The Director shall carry
209 out his management and supervisory powers in accordance with ~~standards and goals of the Board §~~
210 ~~53.1-10.~~

211 **§ 53.1-10. Powers and duties of Director.**

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

214 1. To supervise and manage the Department and its system of state correctional facilities *and issue*
215 *such internal directives and operating procedures as necessary to effectuate the requirements of this*
216 *title;*

217 2. To implement the standards and goals of the Board as formulated for local and community
218 correctional programs and facilities and lock-ups;

219 3. To employ such personnel and develop and implement such programs as may be necessary to
220 carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within
221 the limits of appropriations made therefor by the General Assembly;

222 4. To establish and maintain a general system of schools for persons committed to the institutions
223 and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8. Such system shall
224 include, as applicable, elementary, secondary, post-secondary, career and technical education, adult, and
225 special education schools.

226 a. The Director shall employ a Superintendent who will oversee the operation of educational and
227 vocational programs in all institutions and community-based programs for adults as set forth in
228 §§ 53.1-67.7 and 53.1-67.8 operated by the Department. The Department shall be designated as a local
229 education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to
230 public education.

231 b. When the Department employs a teacher licensed by the Board of Education to provide instruction
232 in the schools of the correctional centers, the Department of Human Resource Management shall
233 establish salary schedules for the teachers which endeavor to be competitive with those in effect for the
234 school division in which the correctional center is located.

235 c. The Superintendent shall develop a functional literacy program for inmates testing below a
236 selected grade level, which shall be at least at the twelfth grade level. The program shall include
237 guidelines for implementation and test administration, participation requirements, criteria for satisfactory
238 completion, and a strategic plan for encouraging enrollment in college or an accredited vocational
239 training program or other accredited continuing education program.

240 d. For the purposes of this section, the term "functional literacy" shall mean those educational skills
241 necessary to function independently in society, including, but not limited to, reading, writing,
242 comprehension, and arithmetic computation.

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

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

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

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

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

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

§ 53.1-18. Department to have custody of property; right to sue.

The ~~Board~~ Department shall have custody of both the real and personal property of state correctional facilities. The ~~Board~~ Department is authorized to institute and prosecute in the name of the Commonwealth any suit or proceeding to protect the rights of the Commonwealth in such property.

§ 53.1-19. Establishment of correctional institutions.

The Director, subject to the approval of the ~~Board~~ and the Governor, shall determine the necessity for and select the site of any new state correctional facility and any land to be taken or purchased by the Commonwealth for the purposes of any new or existing state correctional facility. The Director shall have charge of the construction of any new building at any state correctional facility, shall determine the design thereof, and for this purpose may employ architects and other experts or hold competitions for plans and designs. On or after January 1, 1996, at least ninety days in advance of the issuance of requests for proposals for construction, notice shall be given by the Director to the chairman of the board of supervisors or mayor of a county, city or town in which the facility is to be established or

expanded for the purpose of the confinement of inmates. In addition, if the local governing body in the jurisdiction where the facility is to be located so requests, upon receipt of such request, the Department shall hold a public hearing in that jurisdiction. The Director may, if he finds it practical and economical, use persons sentenced to the Department as laborers in the construction of such structures.

If land or property is taken or purchased by the ~~Board~~ *Commonwealth*, title shall be taken in the name of the Commonwealth. The original names of all state correctional facilities shall be designated by the ~~Board and approved by Director~~, *subject to the approval of* the Governor.

§ 53.1-30. Who may enter interior of state correctional facilities; searches of those entering.

A. The Governor; ~~and members of the General Assembly; and members of the Board of Corrections~~ may go into the interior of any state correctional facility. Attorneys shall be permitted in the interior of a state correctional facility to confer with prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved. The Director shall prescribe; ~~subject to approval of the Board~~, the time and conditions on which attorneys and other persons may enter any state correctional facility.

B. The Department shall promulgate a policy to assist a person who was a victim of a crime committed by an offender incarcerated in any state correctional facility to visit with such offender. Such policy may include provisions necessary to preserve the safety and security of those at such visit and the good order of the facility, including consideration of the offender's security level, crime committed, and institutional behavior of the offender. The Department shall make whatever arrangements are necessary to effectuate such a visit. This subsection shall not apply to juvenile victims.

C. Any person seeking to enter the interior of any state correctional facility shall be subject to a search of his person and effects. Such search shall be performed in a manner reasonable under the circumstances and may be a condition precedent to entering a correctional facility.

§ 53.1-32. Treatment and control of prisoners; recreation; religious services.

A. It shall be the general purpose of the state correctional facilities to provide proper employment, training and education in accordance with this title, medical and mental health care and treatment, discipline and control of prisoners committed or transferred thereto. The health service program established to provide medical services to prisoners shall provide for appropriate means by which prisoners receiving nonemergency medical services may pay fees based upon a portion of the cost of such services. In no event shall any prisoner be denied medically necessary service due to his inability to pay. ~~The Board shall promulgate regulations governing such a program.~~

B. The Department of Corrections shall establish and maintain a treatment program for prisoners convicted pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and committed to its custody. The program shall include a clinical assessment of all such prisoners upon receipt into the custody of the Department of Corrections and the development of appropriate treatment plans, if indicated. A licensed psychiatrist or licensed clinical psychologist who is experienced in the diagnosis, treatment, and risk assessment of sex offenders shall oversee the program and the program shall be administered by a licensed psychiatrist, licensed clinical psychologist, or a licensed mental health professional who is a certified sex offender treatment provider as defined in § 54.1-3600.

C. The Director shall provide a program of recreation for prisoners. The Director may establish, with consultation from the Department of Behavioral Health and Developmental Services, a comprehensive substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and may make such program available to any prisoner requiring the services provided by the program.

D. The Director or his designee who shall be a state employee is authorized to make arrangements for religious services for prisoners at times as he may deem appropriate. When such arrangements are made pursuant to a contract or memorandum of understanding, the final authority for such arrangements shall reside with the Director or his designee.

§ 53.1-32.1. Classification system; program assignments; mandatory participation.

A. The Director shall maintain a system of classification which (i) evaluates all prisoners according to background, aptitude, education, and risk and (ii) based on an assessment of needs, determines appropriate program assignments including career and technical education, work activities and employment, academic activities which at a minimum meet the requirements of § 66-13.1, counseling, alcohol and substance abuse treatment, and such related activities as may be necessary to assist prisoners in the successful transition to free society and gainful employment.

B. The Director shall, subject to the availability of resources and sufficient program assignments, place prisoners in appropriate full-time program assignments or a combination thereof to satisfy the objectives of a treatment plan based on an assessment and evaluation of each prisoner's needs. Compliance with specified program requirements and attainment of specific treatment goals shall be required as a condition of placement and continuation in such program assignments. The Director may suspend programs in the event of an institutional emergency.

C. For the purposes of implementing the requirements of subsection B, prisoners shall be required to

participate in such programs according to the following schedule:

1. From July 1, 1994, through June 30, 1995, an average of 24 hours per week.
2. From July 1, 1995, through June 30, 1996, an average of 28 hours per week.
3. From July 1, 1996, through June 30, 1997, an average of 30 hours per week.
4. From July 1, 1997, through June 30, 1998, an average of 36 hours per week.
5. From July 1, 1998, and thereafter, an average of 40 hours per week.

D. Notwithstanding any other provision of law, prisoners refusing to accept a program assignment shall not be eligible for good conduct allowances or earned sentence credits authorized pursuant to Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. Such refusal shall also constitute a violation of the rules authorized pursuant to § 53.1-25 and the Director shall prescribe appropriate disciplinary action.

E. The Director shall maintain a master program listing, by facility and program location, of all available permanent and temporary positions. The Director may, consistent with § 53.1-43 and subject to the approval of the Board, establish a system of pay incentives for such assignments based upon difficulty and level of effort required.

F. Inmates employed pursuant to Article 2 (§ 53.1-32 et seq.) of Chapter 2 of this title shall not be deemed employees of the Commonwealth of Virginia or its agencies and shall be ineligible for benefits under Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, Chapter 6 (§ 60.2-600 et seq.) of Title 60.2, Chapter 5 (§ 65.2-500 et seq.) of Title 65.2 or any other provisions of the Code pertaining to the rights of state employees.

§ 53.1-37. Furloughs generally; travel expenses; penalties for violations.

A. The Director may extend the limits of confinement of any prisoner in any state correctional facility to permit him a furlough under the provisions of this section for the purpose of visiting his home or family. Such furlough shall be for a period to be prescribed by the Director or his designee, in his discretion, not to exceed three days in addition to authorized travel time. Except for furloughs permitted under subsection C, the time during which a prisoner is on furlough shall not be counted as time served against any sentence, and during any furlough, no earned sentence credits as defined in § 53.1-116, good conduct allowance, or any other reduction of sentence shall accrue. The Board shall promulgate rules and regulations governing extension of limits of confinement hereunder.

B. The Director may, when feasible, require the prisoner or his relatives to bear the travel expense required for such visit or a prescribed portion thereof. Such travel expense shall include all amounts necessarily expended for travel, food and lodging of such prisoner and any accompanying personnel of the Department during such furlough, and a per diem amount set by the Director to reimburse the Department for furnishing custodial personnel.

C. The Director may permit a prisoner a furlough when the prisoner has been approved for release on parole by the Parole Board and 30 days or less remain to be served by the prisoner prior to his date of release on parole. Such a furlough shall not exceed 30 days.

D. Any prisoner who willfully fails to remain within the limits of confinement set by the Director hereunder, or who willfully fails to return within the time prescribed to the place designated by the Director in granting such extension, shall be guilty of an escape and shall be subject to penalty as though he left the state correctional facility itself.

E. Any prisoner who without authority or just cause fails to remain within the limits of confinement set by the Director hereunder, or who without authority or just cause fails to return within the time prescribed to the place designated by the Director in granting such extension, shall be guilty of a Class 2 misdemeanor.

F. Fifteen days prior to a prisoner's participation in the furlough program, the Director shall give the chief of police, sheriff or local chief law-enforcement official of the locality in which the prisoner will stay, notice of the prisoner's participation. Such notice shall include the name, address and criminal history, and any additional information the chief of police or such officer may request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 53.1-42. Allowance for work and disposition thereof.

Every prisoner committed and transferred to the Department and thereafter confined for the sentence for which he was committed in a state or local correctional facility shall be allowed an amount to be established by the Board Department for each day of labor satisfactory to the superintendent or sheriff in whose charge he is. The allowance so made shall accumulate and be paid over to the prisoner upon discharge, except that an amount thereof to be determined by the Board Department may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the Board Department.

For the purposes of this section only, the phrase "transferred to the Department" means (i) the actual physical receipt by the Department of a prisoner in a state correctional facility or (ii) the complete processing by the Department of a prisoner for the purposes of classifying the person as a state prisoner whether or not the person is physically received into a state correctional facility.

§ 53.1-43. Pay incentives for prisoners.

The Director may, ~~subject to the approval of the Board,~~ establish a system of pay incentives for prisoners confined in any state correctional facility. Such system may provide for the payment of a bonus to any prisoner who is assigned to employment in any position of responsibility or who performs his job in an exemplary manner.

§ 53.1-60. Extending limits of confinement of state prisoners for work and educational programs; disposition of wages; support of certain dependents; penalties for violations.

A. The Director is authorized to establish work release programs, ~~subject to such rules and regulations as the Board may prescribe,~~ whereby (i) a prisoner who is proficient in any trade or occupation and whom the Director is satisfied is trustworthy, may be approved for employment by private individuals, corporations or state agencies at places of business, or (ii) a prisoner whom the Director is satisfied is trustworthy and capable of receiving substantial benefit from educational and other related community activity programs that are not available within a state correctional facility may attend such programs outside of the correctional facility, without a correctional officer during any hour of the day or night. Such prisoner shall travel directly to, from, or be in authorized attendance or employment at such place of business, ~~or~~ educational or related community activity program.

B. The Director is authorized to arrange for the temporary care of prisoners who are deemed capable of participation in the programs established herein in approved local or community correctional facilities. The hours of employment or attendance shall be arranged by the Director. In the event of a legally sanctioned strike at the prisoner's place of employment, the prisoner in the work release program shall be withdrawn from the employment for the duration of the strike.

C. The compensation for such employment shall be arranged by the Director and shall be the same as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The Director shall, ~~in accordance with regulations promulgated by the Board,~~ deduct from such wages, in the following order of priority, an amount to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the prisoner's keep.

The balance shall be credited to the prisoner's account or sent to his family in an amount the prisoner so chooses.

D. Any prisoner who has been placed in any of the programs authorized herein shall, while outside the state correctional facility or approved local or community correctional facility to which he is assigned, be deemed to be in custody whether or not he is under the supervision of a correctional officer. If the prisoner, without proper authority or without just cause, leaves the area in which he has been directed to work or to attend educational or community activity programs, or the vehicle or route involved in his traveling to or from such place or program, he may be found guilty of escape as provided for in § 18.2-477 as though he had left the state, local or community correctional facility itself, or, if there are mitigating circumstances or the culpability of the prisoner is minimal, he may be found guilty of a Class 2 misdemeanor.

E. The Director and any sheriff or other administrative head of any local correctional facility are authorized to enter into agreements whereby persons committed to the Department, whether such persons are housed in a state or local correctional facility, and who meet the Department's standards for such release may participate in local work release programs or in educational or other rehabilitative programs operating pursuant to § 53.1-131. Any person so placed shall be governed by the rules and regulations applicable to local work release programs.

F. The provisions of § 53.1-131 shall apply to any person convicted of a felony but confined in jail pursuant to § 53.1-20 and participating in work, rehabilitation, or education programs.

§ 53.1-67.1. Establishment of program; supervision upon completion; report.

The Department shall establish, staff, and maintain at any state correctional facility designated by the ~~Board of Corrections~~ Director a Boot Camp Incarceration Program of intensive supervision for the rehabilitation, training, and confinement of individuals committed to the Department under the provisions of § 19.2-316.1. No more than 200 individuals shall be confined pursuant to the program at any one time. The program shall include components for drill and ceremony, physical labor, counseling, remedial education including drug education, and career and occupational assessment.

Upon completion of the program, the individual shall be released from confinement and remain on probation for a period of one year or for such other longer period as may be specified by the sentencing court. As a condition of such probation following the boot camp component, a probationer's successful participation in employment, career and technical education or other educational programs may be required.

Probation officers assigned to the program shall be appointed by the judges of the circuit court of the county or city in which the position is assigned. Any officer so appointed shall have the same powers and duties as specified in § 53.1-145 and such appointment shall be valid in any judicial circuit in the Commonwealth.

§ 53.1-131. Provision for release of prisoner from confinement for employment, educational or other rehabilitative programs; escape; penalty; disposition of earnings.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense or charged with an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and (i) sentenced to confinement in jail or (ii) being held in jail pending completion of a presentence report pursuant to § 19.2-299, and if it appears to the court that such offender is a suitable candidate for work release, assign the offender to a work release program under the supervision of a probation officer, the sheriff or the administrator of a local or regional jail or a program designated by the court. The court further may authorize the offender to participate in educational or other rehabilitative programs designed to supplement his work release employment. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of employment and the location of any educational or rehabilitative program in which the offender participates.

Any person who has been sentenced to confinement in jail or who has been convicted of a felony but is confined in jail pursuant to § 53.1-20, in the discretion of the sheriff may be assigned by the sheriff to a work release program under the supervision of the sheriff or the administrator of a local or regional jail. The sheriff may further authorize the offender to participate in educational or other rehabilitative programs as defined in this section designed to supplement his work release employment. The court that sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of any such assignment and of the offender's place of employment or other rehabilitative program. The court, in its discretion, may thereafter revoke the authority for such an offender to participate in a work release program.

The sheriff and the Director may enter into agreements whereby persons who are committed to the Department, whether such persons are housed in a state or local correctional facility, and who have met all standards for such release, may participate in a local work release program or in educational or other rehabilitative programs as defined in this section. The administrator of a regional jail and the Director may also enter into such agreements where such agreements are approved in advance by a majority of the sheriffs on the regional jail board. All persons accepted in accordance with this section shall be governed by all regulations applying to local work release, notwithstanding the provisions of any other section of the Code. Local jails shall qualify for compensation for cost of incarceration of such persons pursuant to § 53.1-20.1, less any payment for room and board collected from the inmate.

If an offender who has been assigned to such a program by the court is in violation of the rules of the jail pursuant to § 53.1-117, the sheriff or jail administrator may remove the offender from the work release program, either temporarily or for the duration of the offender's confinement. Upon removing an offender from the work release program, the sheriff or jail administrator shall notify in writing the court that sentenced the offender and indicate the specific violations that led to the decision.

Any offender assigned to such a program by the court or sheriff who, without proper authority or just cause, leaves the area to which he has been assigned to work or attend educational or other rehabilitative programs, or leaves the vehicle or route of travel involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. In the event such offender leaves the Commonwealth, the offender may be found guilty of an escape as provided in § 18.2-477. An offender who is found guilty of a Class 1 misdemeanor in accordance with this section shall be ineligible for further participation in a work release program during his current term of confinement.

The Board shall prescribe regulations to govern the work release, educational, and other rehabilitative programs authorized by this section *for local responsible offenders. The Department shall issue directives and develop operating procedures to govern the work release, educational, and other rehabilitative programs authorized by this section for state responsible offenders.*

Any wages earned pursuant to this section by an offender may, upon order of the court, be paid to the director or administrator of the program after standard payroll deductions required by law. Distribution of such wages shall be made for the following purposes:

1. To pay an amount to defray the cost of his keep;
 2. To pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program;
 3. To provide support and maintenance for his dependents or to make payments to the local department of social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance or social services as defined in § 63.2-100; or
 4. To pay any fines, restitution or costs as ordered by the court.
- Any balance at the end of his sentence shall be paid to the offender upon his release.

B. For the purposes of this section:

"Educational program" means a program of learning recognized by the State Council of Higher Education, the State Board of Education, *the Department of Corrections*, or the State Board of Corrections.

"Rehabilitative program" includes an alcohol and drug treatment program, mental health program, family counseling, community service or other community program approved by the court having jurisdiction over the offender.

"Sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail administrator to assign offenders to work release programs under this section.

"Work release" means full-time employment or participation in suitable career and technical education programs.

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery under § 18.2-58.1; or (vi) any criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate, in a court-ordered intensive case monitoring program for child support. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of any educational or rehabilitative program in which the offender participates.

B. In any city or county in which a home/electronic incarceration program established pursuant to this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or regional jail, may assign the accused to such a program pending trial if it appears to the court that the accused is a suitable candidate for home/electronic incarceration.

C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender violates any provision of the terms of the home/electronic incarceration agreement, the offender may have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The court shall retain authority to remove the offender from such home/electronic incarceration program. The court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of the offender's place of home/electronic incarceration and place of employment or other rehabilitative program.

D. The Board may prescribe regulations to govern home/electronic incarceration programs *for local responsible offenders, and the Director may establish operating procedures to govern home/electronic incarceration programs for state responsible offenders.*

E. Any offender or accused assigned to such a program by the court or sheriff who, without proper authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been assigned to work or attend educational or other rehabilitative programs, including a court-ordered intensive case monitoring program for child support, or the vehicle or route of travel involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who is found guilty of a violation of this section shall be ineligible for further participation in a home/electronic incarceration program during his current term of confinement.

F. The director or administrator of a home/electronic incarceration program who also operates a residential program may remove an offender from a home/electronic incarceration program and place him in such residential program if the offender commits a noncriminal program violation. The court shall be notified of the violation and of the placement of the offender in the residential program.

G. The director or administrator of a home/electronic incarceration program shall charge the offender or accused a fee for participating in the program to pay for the cost of home/electronic incarceration equipment. The offender or accused shall be required to pay the program for any damage to the equipment which is in his possession or for failure to return the equipment to the program.

H. Any wages earned by an offender or accused assigned to a home/electronic incarceration program and participating in work release shall be paid to the director or administrator after standard payroll deductions required by law. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution or costs as ordered by the court;

3. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

4. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The Board of Corrections shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, the withholding of payments, and the disbursement of appropriate funds for local responsible inmates.

The Director shall establish procedures governing the receipt of wages paid to persons participating in such programs, the withholding of payments, and the disbursement of appropriate funds for state responsible inmates.

I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration programs pursuant to this section.

§ 53.1-133.03. Exchange of medical and mental health information and records.

Notwithstanding any other provision of law relating to disclosure and confidentiality of patient records maintained by a health care provider, medical and mental health information and records of any person committed to jail, and transferred to another correctional facility, may be exchanged among the following:

1. Administrative personnel of the correctional facilities involved and of the administrative personnel within the holding facility when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the safety and security of the facility.

2. Members of the Parole Board or its designees, as specified in § 53.1-138, in order to conduct the investigation required under § 53.1-155.

3. Probation and parole officers for use in parole and probation planning, release and supervision.

4. Officials of the facilities involved and officials within the holding facility for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental and mental health care, treatment and other such programs.

5. Medical and mental health hospitals and facilities, both public and private, including community service boards and health departments, for use in treatment while committed to jail or a correctional facility while under supervision of a probation or parole officer.

Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The disclosure of results of a test for human immunodeficiency virus shall not be permitted except as provided in §§ 32.1-36.1 and 32.1-116.3.

The release of medical and mental health information for local responsible offenders and records to any other agency or individual shall be subject to all regulations promulgated by the Board of Corrections, which shall govern confidentiality of such records. Medical and mental health information concerning a prisoner which that has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

The release of medical and mental health information for state responsible offenders and records to any other agency or individual shall be subject to Department of Corrections operating procedures,

674 *which shall govern confidentiality of such records. Medical and mental health information concerning a*
675 *prisoner that has been exchanged pursuant to this section may be used only as provided herein and*
676 *shall otherwise remain confidential and protected from disclosure.*

677 Nothing contained in this section shall prohibit the release of records to the Department of Health
678 Professions or health regulatory boards consistent with Subtitle III (§ 54.1-2400 et seq.) of Title 54.1 of
679 the Code of Virginia.

680 **§ 53.1-145. Powers and duties of probation and parole officers.**

681 In addition to other powers and duties prescribed by this article, each probation and parole officer
682 shall:

683 1. Investigate and report on any case pending in any court or before any judge in his jurisdiction
684 referred to him by the court or judge;

685 2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and
686 when available resources permit, placement of such persons in a substance abuse treatment program
687 which may include utilization of acupuncture and other treatment modalities, and furnish every such
688 person with a written statement of the conditions of his probation and instruct him therein; if any such
689 person has been committed to the Department of Behavioral Health and Developmental Services under
690 the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include
691 the requirement that the person comply with all conditions given him by the Department of Behavioral
692 Health and Developmental Services, and that he follow all of the terms of his treatment plan;

693 3. Supervise and assist all persons within his territory released on parole or postrelease supervision,
694 secure, as appropriate and when available resources permit, placement of such persons in a substance
695 abuse treatment program which may include utilization of acupuncture and other treatment modalities,
696 and, in his discretion, assist any person within his territory who has completed his parole, postrelease
697 supervision, or has been mandatorily released from any correctional facility in the Commonwealth and
698 requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to
699 the community;

700 4. Arrest and recommit to the place of confinement from which he was released, or in which he
701 would have been confined but for the suspension of his sentence or of its imposition, for violation of
702 the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer,
703 person subject to post-release supervision or parolee under his supervision, or as directed by the
704 Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

705 5. Keep such records, make such reports, and perform other duties as may be required of him by the
706 Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he
707 was authorized;

708 6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person
709 subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the
710 officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the
711 abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations
712 Operating procedures governing the officer's exercise of this authority shall be promulgated developed
713 by the Board Department;

714 7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the
715 Board Department operating procedures and upon the certification of appropriate training and specific
716 authorization by a judge of a circuit court;

717 8. Provide services in accordance with any contract entered into between the Department of
718 Corrections and the Department of Behavioral Health and Developmental Services pursuant to
719 § 37.2-912;

720 9. Pursuant to any contract entered into between the Department of Corrections and the Department
721 of Behavioral Health and Developmental Services, probation and parole officers shall have the power to
722 provide intensive supervision services to persons placed on conditional release, regardless of whether the
723 person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et
724 seq.);

725 10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release
726 whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on
727 probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter
728 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to
729 submit a sample for DNA analysis; and

730 11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult
731 Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia,
732 would be considered a felony, take a sample or verify that a sample has been taken and accepted into
733 the data bank for DNA analysis in the Commonwealth.

734 Nothing in this article shall require probation and parole officers to investigate or supervise cases
735 before general district or juvenile and domestic relations district courts.

§ 53.1-150.1. Contribution by persons on parole.

Any person who is granted parole and who is required to receive substance abuse treatment as a condition of parole shall contribute towards the cost of such treatment based upon his ability to pay, as established pursuant to ~~regulations promulgated~~ *operating procedures developed* by the Board of Corrections Department. The ~~regulations operating procedures~~ shall provide that (i) any fees collected for such treatment shall be paid directly to the service provider and (ii) any person may be exempt from the payment of such fees on the grounds of unreasonable hardship.

§ 53.1-154.1. Authority of Director to recommend parole review; release upon review.

The Director is authorized, ~~in accordance with rules and regulations adopted by the Board of Corrections,~~ to determine those prisoners who may be suitable parole risks and whose interests and those of society will be served by their early parole release and to recommend such prisoners to the Parole Board for early parole consideration. In making such recommendation, the Director shall take into account the prisoner's criminal history record, mental and physical condition, employability, institutional adjustment and such other factors as may be appropriate, including the risk of violence to others. The case of any such prisoner so recommended may be reviewed by the Parole Board prior to such prisoner's date of eligibility for parole. Upon appropriate review the Parole Board may release on parole prior to the date of eligibility for parole any prisoner so recommended by the Director. However, no prisoner shall be released until he has served at least one-fourth of the term of imprisonment imposed, or until he has served twelve years of the term of imprisonment imposed if one-fourth of the term of imprisonment imposed is more than twelve years, except as such time is reduced by any other provision of law.

This section shall have no application to persons not eligible for parole pursuant to subsections B, B1 and E of § 53.1-151.

§ 53.1-164. Procedure for return of parolee or felon serving a period of postrelease supervision.

When any parolee or felon serving a period of postrelease supervision is returned to any facility in accordance with the provisions of § 53.1-161, he shall be held in accordance with ~~rules operating procedures~~ of the Board Department of Corrections and subject to further action of the Parole Board. The officer in charge of the facility shall see that the Parole Board is notified promptly of each such parolee's or felon's return.

§ 53.1-191. Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder.

The ~~Board~~ Director, with the consent of the Governor, may allow to any prisoner confined in a state correctional facility a credit toward his term of confinement if he (i) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner; (ii) gives a blood donation to another prisoner; (iii) voluntarily or at the instance of a prison official renders other extraordinary services; or (iv) suffers bodily injury while in the prison system. The ~~Board~~ Director shall determine the amount of any such credit for each such service or injury. In unusual circumstances a prisoner may receive credit for donating blood, under ~~regulations prescribed by the Board Department operating procedures,~~ to blood banks licensed by or subject to regulations of the State Board of Health. The ~~Board~~ Director may allow the credit permitted by this section to a prisoner who has been sentenced to the Department of Corrections but who is confined in a local correctional facility.

Except as provided hereafter, any credit allowed under the provisions of this section shall be applied as provided in § 53.1-199. A prisoner who has been sentenced to a term of life imprisonment or to two or more life sentences shall be eligible for credits allowed under the provisions of this section. One-half of such credit shall be applied to reduce the period of time such prisoner shall serve before being eligible for parole.

Credits allowed under the provisions of this section may not be forfeited under § 53.1-189. Credits shall not be allowed under the provisions of this section to apply toward a term of confinement imposed upon a conviction of a felony offense committed on or after January 1, 1995.

§ 53.1-200. Conditions for good conduct allowance.

~~Regulations approved~~ *Operating procedures developed* by the ~~Board~~ Department shall govern the earning of good conduct allowance *for state responsible offenders. Regulations promulgated by the Board shall govern the earning of good conduct allowance for local responsible offenders.* The ~~operating procedures and regulations~~ shall require, as a condition for earning the allowance, that a prisoner participate in an appropriate educational, training, work, counseling or substance abuse program or other program intended for his rehabilitation, as provided in § 53.1-32.1. The amount of good conduct allowance to be credited to those persons eligible therefor shall be based upon compliance with written prison rules or regulations; a demonstration of responsibility in the performance of assignments; and a demonstration of a desire for self-improvement.

§ 53.1-202.4. Department of Corrections, Board to establish certain procedures, criteria, etc.

The ~~Board~~ Department shall *establish operating procedures for state responsible offenders and the*

797 *Board shall promulgate regulations for local responsible offenders that:*

798 1. Establish the criteria upon which a person shall be deemed to have earned sentence credits;

799 2. Establish the bases upon which earned sentence credits may be forfeited;

800 3. Establish the number of earned sentence credits which will be forfeited for violations of various (i)
801 institutional rules, (ii) program participation requirements or (iii) other requirements for the retention of
802 sentence credits; and

803 4. Establish such additional requirements for the earning of sentence credits as may be deemed
804 advisable and as are consistent with the purposes of this article.

805 **§ 53.1-266. Department shall develop operating procedures.**

806 The ~~Board~~ *Department* shall ~~make, adopt and promulgate regulations~~ *develop operating procedures*
807 governing the following aspects of private management and operation of prison facilities:

808 1. Contingency plans for state operation of a contractor-operated facility in the event of a termination
809 of the contract;

810 2. Use of deadly and nondeadly force by prison contractors' security personnel;

811 3. Methods of monitoring a contractor-operated facility by the Department or the Board;

812 4. Public access to a contractor-operated facility; and

813 5. Such other ~~regulations~~ *operating procedures* as may be necessary to carry out the provisions of
814 this chapter.