

# VIRGINIA ACTS OF ASSEMBLY -- 2019 SESSION

## CHAPTER 202

*An Act to amend and reenact § 53.1-40.10 of the Code of Virginia, relating to Department of Corrections; policies to facilitate exchange of health records and information.*

[H 2499]

Approved March 5, 2019

**Be it enacted by the General Assembly of Virginia:**

**1. That § 53.1-40.10 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-40.10. Exchange of medical and mental health information and records.**

A. Whenever a person is committed to a state correctional facility, the person in charge of the facility or his designee shall be entitled to obtain medical records concerning such person from a health care provider. In addition, medical and mental health information and records of any person committed to the Department of Corrections may be exchanged among the following:

1. Administrative personnel for the facility in which the prisoner is imprisoned when there is reasonable cause to believe that such information is necessary to maintain the security and safety of the facility, its employees, or other 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, 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 within the Department 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 programs.

5. Medical and mental health hospitals and facilities, both public and private, including community service boards, for use in planning for and supervision of post-incarceration medical and mental health care, treatment, and programs.

6. The Department for Aging and Rehabilitative Services, the Department of Social Services, and any local department of social services in the Commonwealth for the purposes of reentry planning and post-incarceration placement and services.

B. 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.

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

D. *The Department shall develop policies to improve the exchange of medical and mental health information and records of persons committed to a state correctional facility, including policies to improve access to electronic health records and electronic exchange of information and records for the provision of telemedicine and telepsychiatry.*

**2. That the Department of Corrections shall report on its progress in implementing the provisions of this act to the Chairmen of the House Committee on Health, Welfare and Institutions, the Senate Committee on Education and Health, and the Joint Subcommittee to Study Mental Health Services in the Commonwealth in the 21st Century by October 1, 2019.**