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HOUSE BILL NO. 1648

Offered January 16, 2020

A *BILL to amend and reenact §§ 9.1-102, 53.1-20, 53.1-25.1, and 66-10 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-35.2, by adding in Chapter 2 of Title 53.1 an article numbered 2.2, consisting of sections numbered 53.1-40.11 through 53.1-40.16, by adding in Article 7 of Chapter 3 of Title 53.1 a section numbered 53.1-133.06, and by adding in Chapter 3 of Title 53.1 an article numbered 7.1, consisting of sections numbered 53.1-133.07 through 53.1-133.12, relating to state and local correctional facilities; treatment of prisoners known to be pregnant or parents of minor dependents.*

Patrons—Kory, McGuire, Murphy and Freitas

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-102, 53.1-20, 53.1-25.1, and 66-10 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-35.2, by adding in Chapter 2 of Title 53.1 an article numbered 2.2, consisting of sections numbered 53.1-40.11 through 53.1-40.16, by adding in Article 7 of Chapter 3 of Title 53.1 a section numbered 53.1-133.06, and by adding in Chapter 3 of Title 53.1 an article numbered 7.1, consisting of sections numbered 53.1-133.07 through 53.1-133.12, as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions; and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. *Such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing on pregnant inmates, and the impact of body cavity searches on pregnant inmates;*

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

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59 11. Establish compulsory minimum training standards for all auxiliary police officers employed by or
60 in any local or state government agency. Such training shall be graduated and based on the type of
61 duties to be performed by the auxiliary police officers. Such training standards shall not apply to
62 auxiliary police officers exempt pursuant to § 15.2-1731;

63 12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state
64 and federal governmental agencies, and institutions of higher education within or outside the
65 Commonwealth, concerning the development of police training schools and programs or courses of
66 instruction;

67 13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth,
68 for school operation for the specific purpose of training law-enforcement officers; but this shall not
69 prevent the holding of any such school whether approved or not;

70 14. Establish and maintain police training programs through such agencies and institutions as the
71 Board deems appropriate;

72 15. Establish compulsory minimum qualifications of certification and recertification for instructors in
73 criminal justice training schools approved by the Department;

74 16. Conduct and stimulate research by public and private agencies which shall be designed to
75 improve police administration and law enforcement;

76 17. Make recommendations concerning any matter within its purview pursuant to this chapter;

77 18. Coordinate its activities with those of any interstate system for the exchange of criminal history
78 record information, nominate one or more of its members to serve upon the council or committee of any
79 such system, and participate when and as deemed appropriate in any such system's activities and
80 programs;

81 19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this
82 chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to
83 submit information, reports, and statistical data with respect to its policy and operation of information
84 systems or with respect to its collection, storage, dissemination, and usage of criminal history record
85 information and correctional status information, and such criminal justice agencies shall submit such
86 information, reports, and data as are reasonably required;

87 20. Conduct audits as required by § 9.1-131;

88 21. Conduct a continuing study and review of questions of individual privacy and confidentiality of
89 criminal history record information and correctional status information;

90 22. Advise criminal justice agencies and initiate educational programs for such agencies with respect
91 to matters of privacy, confidentiality, and security as they pertain to criminal history record information
92 and correctional status information;

93 23. Maintain a liaison with any board, commission, committee, or other body which may be
94 established by law, executive order, or resolution to regulate the privacy and security of information
95 collected by the Commonwealth or any political subdivision thereof;

96 24. Adopt regulations establishing guidelines and standards for the collection, storage, and
97 dissemination of criminal history record information and correctional status information, and the privacy,
98 confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and
99 court orders;

100 25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal
101 justice information system, produce reports, provide technical assistance to state and local criminal
102 justice data system users, and provide analysis and interpretation of criminal justice statistical
103 information;

104 26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law
105 enforcement and the administration of criminal justice throughout the Commonwealth, and periodically
106 update that plan;

107 27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the
108 Commonwealth, and units of general local government, or combinations thereof, including planning
109 district commissions, in planning, developing, and administering programs, projects, comprehensive
110 plans, and other activities for improving law enforcement and the administration of criminal justice
111 throughout the Commonwealth, including allocating and subgranting funds for these purposes;

112 28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and
113 activities for the Commonwealth and units of general local government, or combinations thereof, in the
114 Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal
115 justice at every level throughout the Commonwealth;

116 29. Review and evaluate programs, projects, and activities, and recommend, where necessary,
117 revisions or alterations to such programs, projects, and activities for the purpose of improving law
118 enforcement and the administration of criminal justice;

119 30. Coordinate the activities and projects of the state departments, agencies, and boards of the
120 Commonwealth and of the units of general local government, or combination thereof, including planning

district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and

182 procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia
183 accreditation status;

184 41. Promote community policing philosophy and practice throughout the Commonwealth by
185 providing community policing training and technical assistance statewide to all law-enforcement
186 agencies, community groups, public and private organizations and citizens; developing and distributing
187 innovative policing curricula and training tools on general community policing philosophy and practice
188 and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia
189 organizations with specific community policing needs; facilitating continued development and
190 implementation of community policing programs statewide through discussion forums for community
191 policing leaders, development of law-enforcement instructors; promoting a statewide community policing
192 initiative; and serving as a statewide information source on the subject of community policing including,
193 but not limited to periodic newsletters, a website and an accessible lending library;

194 42. Establish, in consultation with the Department of Education and the Virginia State Crime
195 Commission, compulsory minimum standards for employment and job-entry and in-service training
196 curricula and certification requirements for school security officers, including school security officers
197 described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the
198 Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards
199 shall include, but shall not be limited to, the role and responsibility of school security officers, relevant
200 state and federal laws, school and personal liability issues, security awareness in the school environment,
201 mediation and conflict resolution, disaster and emergency response, and student behavioral dynamics.
202 The Department shall establish an advisory committee consisting of local school board representatives,
203 principals, superintendents, and school security personnel to assist in the development of the standards
204 and certification requirements in this subdivision. The Department shall require any school security
205 officer who carries a firearm in the performance of his duties to provide proof that he has completed a
206 training course provided by a federal, state, or local law-enforcement agency that includes training in
207 active shooter emergency response, emergency evacuation procedure, and threat assessment;

208 43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with
209 Article 11 (§ 9.1-185 et seq.);

210 44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

211 45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal
212 justice agencies regarding the investigation, registration, and dissemination of information requirements
213 as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

214 46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula,
215 and (iii) certification requirements for campus security officers. Such training standards shall include, but
216 not be limited to, the role and responsibility of campus security officers, relevant state and federal laws,
217 school and personal liability issues, security awareness in the campus environment, and disaster and
218 emergency response. The Department shall provide technical support and assistance to campus police
219 departments and campus security departments on the establishment and implementation of policies and
220 procedures, including but not limited to: the management of such departments, investigatory procedures,
221 judicial referrals, the establishment and management of databases for campus safety and security
222 information sharing, and development of uniform record keeping for disciplinary records and statistics,
223 such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an
224 advisory committee consisting of college administrators, college police chiefs, college security
225 department chiefs, and local law-enforcement officials to assist in the development of the standards and
226 certification requirements and training pursuant to this subdivision;

227 47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established
228 pursuant to § 9.1-187;

229 48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and
230 attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human
231 trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

232 49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of
233 § 46.2-117;

234 50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional
235 Standards Committee by providing technical assistance and administrative support, including staffing, for
236 the Committee;

237 51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to
238 private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

239 52. In consultation with the State Council of Higher Education for Virginia and the Virginia
240 Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on
241 trauma-informed sexual assault investigation;

242 53. In consultation with the Department of Behavioral Health and Developmental Services, develop a
243 model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers,

administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment; and

55. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

§ 53.1-20. Commitment of convicted persons to custody of Director.

A. Every person convicted of a felony committed before January 1, 1995, and sentenced to the Department for a total period of more than two years shall be committed by the court to the custody of the Director of the Department. The Director shall receive all such persons into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic transmission to the Director by the clerk.

B. Persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department or sentenced to confinement in jail for a year or more shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic transmission to the Director by the clerk.

C. If the Governor finds that the number of prisoners in state facilities poses a threat to public safety, it shall be within the discretion of the Director to determine the priority for receiving prisoners into the state corrections system from local correctional facilities.

D. All felons sentenced to a period of incarceration and not placed in an adult state correctional facility pursuant to this section shall serve their sentences in local correctional facilities which shall not include a secure facility or detention home as defined in § 16.1-228.

E. Felons committed to the custody of the Department for a new felony offense shall be received by the Director into the state corrections system in accordance with the provisions of this section without any delay for resolution of (i) issues of alleged parole violations set for hearing before the Parole Board or (ii) any other pending parole-related administrative matter.

F. To the extent practicable, after accounting for security and capacity factors, the Director shall place prisoners who are parents of minor children in a facility as close as possible to such children.

§ 53.1-25.1. Rules of state correctional facilities.

A. The Director shall prescribe rules for state correctional facilities to ensure that, when physical contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe, the officer shall be the same gender as the inmate. However, such rules may allow for the suspension of the provisions of this subsection during the period of a declared emergency.

B. When contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe and the officer is not the same gender as the inmate, the officer involved shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the incident, containing the justification for the suspension of the provisions of subsection A.

§ 53.1-35.2. Visitation of certain prisoners by minor dependents.

The Director is authorized to prescribe reasonable rules regarding visitation that shall include authorization of visitation by minor dependents of prisoners who are parents of minor children with Level 1 or Level 2 security classifications that include (i) opportunities for dependent children under the age of 18 to visit their incarcerated parent at least twice per week unless an employee of the Department has a reasonable belief that the child (a) may be harmed during visitation or (b) poses a security risk due to a gang affiliation, prior conviction, or past violation of a correctional facility's contraband policy; (ii) the elimination of restrictions on the number of dependent children under the age of 18 that may be permitted visitation privileges; and (iii) authorization for contact visits for prisoners who are parents of minor children.

Article 2.2.

Treatment and Control of Prisoners Known to Be Pregnant.

§ 53.1-40.11. Definitions.

As used in this article, unless the context requires a different meaning:

"Postpartum recovery" means the eight-week period, or longer as determined by the health care professional responsible for the health and safety of the prisoner, following childbirth.

"Restraints" means any physical or mechanical device used to restrict or control the movement of a

prisoner's body.

"Restrictive housing" means the same as that term is defined in § 53.1-39.1.

§ 53.1-40.12. Treatment of prisoners known to be pregnant.

A. The following restraints shall not be used on any prisoner known to be pregnant upon notification or diagnosis of the pregnancy and for the duration of the pregnancy, unless an employee of the Department has a reasonable belief that the prisoner will harm herself, the fetus, or any other person or poses a substantial flight risk: (i) leg restraints, (ii) handcuffs or other wrist restraints, except to restrain the prisoner's wrists in front of her, or (iii) restraints connected to other inmates.

B. No restraints shall be used on any prisoner known to be pregnant while in labor or during delivery unless an employee of the Department has a reasonable belief that the prisoner will harm herself, the fetus, or any other person or poses a substantial flight risk. In such case, the employee ordering the use of restraints on any prisoner known to be pregnant while in labor or during delivery shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the use of restraints, containing the justification for restraining the prisoner.

C. No employee of the Department other than a licensed health care professional shall conduct body cavity searches of prisoners known to be pregnant unless the employee has a reasonable belief that the prisoner is concealing contraband. In such case, the employee shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the body cavity search, containing the justification for the search and what contraband was found, if any.

D. The Department shall not place any prisoner known to be pregnant in restrictive housing unless an employee of the Department has a reasonable belief that the inmate will harm herself, the fetus, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing.

E. The Department shall ensure that prisoners known to be pregnant are provided sufficient food and dietary supplements as ordered by a licensed physician or physician staff member to meet generally accepted prenatal nutritional guidelines for pregnant women.

F. The Department shall not assign any prisoner known to be pregnant to any bed that is elevated more than three feet from the floor of the facility.

§ 53.1-40.13. Treatment of prisoners during postpartum recovery.

A. No restraints shall be used on any prisoner who has given birth within the past 30 days and is in postpartum recovery, unless an employee of the Department has a reasonable belief that the prisoner will harm herself, her newborn, or any other person or poses a substantial flight risk. In such case, the employee ordering the use of restraints shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the use of restraints, containing justification for restraining the prisoner.

B. The Department shall not place any prisoner who has given birth in the past 30 days and is in postpartum recovery in restrictive housing unless an employee of the Department has a reasonable belief that the inmate will harm herself, her newborn, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing.

C. Following the delivery of a newborn child by a prisoner, the Department shall permit the newborn to remain with the mother for 72 hours unless a licensed health care professional has a reasonable belief that the newborn child remaining with the mother poses a health or safety risk to the newborn child. During the 72 hours, the Department shall make available the necessary nutritional and hygiene products to care for the newborn child, including diapers. If the prisoner qualifies as indigent, such products shall be provided without cost.

§ 53.1-40.14. Reporting requirement.

The warden or other official in charge of a state correctional facility shall compile a monthly summary of all written reports received pursuant to §§ 53.1-25.1, 53.1-40.12, and 53.1-40.13 and shall submit the summary to the Director each month.

§ 53.1-40.15. Training of correctional facility employees regarding pregnant inmates.

For correctional officers, and juvenile correctional officers who may have contact with pregnant inmates, the compulsory minimum entry-level training standards established pursuant to § 9.1-102 shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing on pregnant inmates, and the impact of body cavity searches on pregnant inmates.

§ 53.1-40.16. Education for pregnant prisoners.

The Department shall develop and provide educational programming for prisoners known to be

pregnant related to (i) prenatal care, (ii) pregnancy-specific hygiene, (iii) parenting skills, (iv) the impact of alcohol and drugs on the fetus, and (v) the general health of children.

§ 53.1-133.06. Rules of local correctional facilities.

A. The sheriff, jail superintendent, or other jail administrator shall prescribe rules for local or regional jails to ensure that when physical contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe, the officer shall be the same gender as the inmate. However, such rules may allow for the suspension of the provisions of this subsection during the period of a declared emergency.

B. When contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe and the officer is not the same gender as the inmate, the officer involved shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the incident, containing the justification for the suspension of the provisions of subsection A.

Article 7.1.

Treatment and Control of Prisoners Known to Be Pregnant.

§ 53.1-133.07. Definitions.

As used in this article, unless the context requires a different meaning:

"Postpartum recovery" and "restraints" mean the same as those terms are defined in § 53.1-40.11.

"Restrictive housing" means the same as that term is defined in § 53.1-39.1.

§ 53.1-133.08. Treatment of prisoners known to be pregnant.

A. The following restraints shall not be used on any prisoner known to be pregnant upon notification or diagnosis of the pregnancy and for the duration of the pregnancy, unless an employee of the local or regional jail has a reasonable belief that the prisoner will harm herself, the fetus, or any other person or poses a substantial flight risk: (i) leg restraints, (ii) handcuffs or other wrist restraints, except to restrain the prisoner's wrists in front of her, or (iii) restraints connected to other inmates.

B. No restraints shall be used on any prisoner known to be pregnant while in labor or during delivery unless an employee of the local or regional jail has a reasonable belief that the prisoner will harm herself, the fetus, or any other person or poses a substantial flight risk. In such case, the employee ordering the use of restraints on any prisoner known to be pregnant while in labor or during delivery shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the use of restraints, containing the justification for restraining the prisoner.

C. No employee of the local or regional jail other than a licensed health care professional shall conduct body cavity searches of prisoners known to be pregnant unless the employee has a reasonable belief that the prisoner is concealing contraband. In such case, the employee shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the body cavity search, containing the justification for the search and what contraband was found, if any.

D. The local or regional jail shall not place any prisoner known to be pregnant in restrictive housing unless an employee of the local or regional jail has a reasonable belief that the inmate will harm herself, the fetus, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing.

E. The local or regional jail shall ensure that prisoners known to be pregnant are provided sufficient food and dietary supplements as ordered by a licensed physician or physician staff member to meet generally accepted prenatal nutritional guidelines for pregnant women.

F. The local or regional jail shall not assign any prisoner known to be pregnant to any bed that is elevated more than three feet from the floor of the facility.

§ 53.1-133.09. Treatment of prisoners during postpartum recovery.

A. No restraints shall be used on any prisoner who has given birth within the past 30 days and is in postpartum recovery, unless an employee of the local or regional jail has a reasonable belief that the prisoner will harm herself, her newborn, or any other person or poses a substantial flight risk. In such case, the employee ordering the use of restraints shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the use of restraints, containing justification for restraining the prisoner.

B. The local or regional jail shall not place any prisoner who has given birth in the past 30 days and is in postpartum recovery in restrictive housing unless an employee of the local or regional jail has a reasonable belief that the inmate will harm herself, her newborn, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing shall submit a written report to the sheriff, jail superintendent, or other jail administrator within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing.

C. Following the delivery of a newborn child by a female prisoner, the local or regional jail shall

428 *permit the newborn to remain with the mother for 72 hours unless a licensed health care professional*
429 *has a reasonable belief that the newborn child remaining with the mother poses a health or safety risk*
430 *to the newborn child. During the 72 hours, the local or regional jail shall make available the necessary*
431 *nutritional and hygiene products to care for the newborn child, including diapers. If the prisoner*
432 *qualifies as indigent, such products shall be provided without cost.*

433 **§ 53.1-133.10. Reporting requirement.**

434 *The sheriff, jail superintendent, or other jail administrator shall compile a monthly summary of all*
435 *written reports received pursuant to §§ 53.1-133.06, 53.1-133.08, and 53.1-133.09 and shall submit the*
436 *summary to the Board each month.*

437 **§ 53.1-133.11. Training of correctional facility employees regarding pregnant inmates.**

438 *For deputy sheriffs and jail officers who may have contact with pregnant inmates, the compulsory*
439 *minimum entry-level training standards established pursuant to § 9.1-102 shall include training on the*
440 *general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of*
441 *being placed in restrictive housing on pregnant inmates, and the impact of body cavity searches on*
442 *pregnant inmates.*

443 **§ 53.1-133.12. Education for pregnant prisoners.**

444 *The local or regional jail shall develop and provide educational programming for prisoners known*
445 *to be pregnant related to (i) prenatal care, (ii) pregnancy-specific hygiene, (iii) parenting skills, (iv) the*
446 *impact of alcohol and drugs on the fetus, and (v) the general health of children.*

447 **§ 66-10. Powers and duties of Board.**

448 *The Board shall have the following powers and duties:*

449 *1. To establish and monitor policies for the programs and facilities for which the Department is*
450 *responsible under this law.*

451 *2. To ensure the development of a long-range youth services policy.*

452 *3. To monitor the activities of the Department and its effectiveness in implementing the policies*
453 *developed by the Board.*

454 *4. To advise the Governor and Director on matters relating to youth services.*

455 *5. To promulgate such regulations as may be necessary to carry out the provisions of this title and*
456 *other laws of the Commonwealth.*

457 *6. To ensure the development of programs to educate citizens and elicit public support for the*
458 *activities of the Department.*

459 *7. To establish length-of-stay guidelines for juveniles indeterminately committed to the Department*
460 *and to make such guidelines available for public comment.*

461 *8. To adopt all necessary regulations for the management and operation of the schools in the*
462 *Department except that the regulations adopted hereunder shall not conflict with regulations relating to*
463 *security of the institutions in which the juveniles are committed.*

464 *9. To establish compulsory minimum entry-level, in-service, and advanced training standards, as well*
465 *as the time required for completion of such training, for persons employed as juvenile correctional*
466 *officers employed at a juvenile correctional facility as defined in § 66-25.3. For such juvenile*
467 *correctional officers who may have contact with pregnant inmates, such standards shall include training*
468 *on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the*
469 *impact of being placed in restrictive housing on pregnant inmates, and the impact of body cavity*
470 *searches on pregnant inmates.*