

# VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

## CHAPTER 179

*An Act to amend and reenact § 53.1-68 of the Code of Virginia, relating to behavioral health assessments in local correctional facilities.*

[H 1874]

Approved March 18, 2021

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

**1. That § 53.1-68 of the Code of Virginia is amended and reenacted as follows:**

**§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections, behavioral health services inspections, and personnel.**

A. The Board shall establish minimum standards for the construction, equipment, administration, and operation of local correctional facilities, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards. The Board or its agents shall conduct at least one unannounced inspection of each local facility annually. However, in those years in which a certification audit of a facility is performed and the facility is in compliance with all the standards, the Board may elect to suspend the unannounced inspection based upon that certification audit and the history of compliance of the facility with the standards promulgated in accordance with this section, except in any year in which there is a change in the administration of a local or regional jail. The Board shall also establish minimum standards for the construction, equipment, and operation of lock-ups, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards.

B. Standards concerning sanitation in local correctional facilities and procedures for enforcing these standards shall be promulgated by the Board with the advice and guidance of the State Health Commissioner. The Board, in conjunction with the Board of Health, shall establish a procedure for the conduct of at least one unannounced annual health inspection by the State Health Commissioner or his agents of each local correctional facility. The Board and the State Health Commissioner may authorize such other announced or unannounced inspections as they consider appropriate.

C. The Board shall establish minimum standards for behavioral health services in local correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and the State Inspector General.

Such standards shall include:

1. Requirements for behavioral health services provided in jails, including requirements for (i) behavioral health screening ~~and assessment~~ of individuals committed to local correctional facilities; (ii) *referral of individuals committed to local correctional facilities for whom a behavioral health screening indicates reason to believe the person may have mental illness to a behavioral health service provider for a behavioral health assessment*; and (iii) the provision of behavioral health services in local correctional facilities, as well as regulations directing the sharing of medical and mental health information and records in accordance with § 53.1-133.03. *Requirements related to behavioral health screenings and assessments shall include a requirement that in cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk for suicide, (a) staff of the local correctional facility shall consult with the behavioral health service provider to implement immediate interventions and shall provide ongoing monitoring to ensure the safety of the individual and (b) the behavioral health assessment shall be completed within 72 hours of completion of the behavioral health screening, except that if the 72-hour period ends on a day that is a Saturday, Sunday, or legal holiday, the assessment shall be completed by the close of business on the next day that is not a Saturday, Sunday, or legal holiday*;

2. Requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from the local correctional facility, which shall include (i) creation of a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1, and (ii) coordination of services and care with community providers, community supervision agencies, and, as appropriate, the individual's family in accordance with the discharge plan until such time as the individual has begun to receive services in accordance with the discharge plan or for a period of 30 days following release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to the full continuum of care for the individual upon release from the local correctional facility and shall include provisions for (a) linking the individual for whom the discharge plan has been prepared to the community services board in the jurisdiction in which he will reside following release and to other supports and services necessary to meet his service needs and (b) communication of information regarding the individual's treatment needs

and exchange of treatment records among service providers;

3. A requirement for at least one unannounced annual inspection of each local correctional facility by the Board or its agents to determine compliance with the standards for behavioral health services established pursuant to this subsection and such other announced or unannounced inspections as the Board may deem necessary to ensure compliance with the standards for behavioral health services established pursuant to this subsection; and

4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by and payment by such sheriff or superintendent to a community services board that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

D. The Department of Criminal Justice Services, in accordance with § 9.1-102, shall establish minimum training standards for persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120 and for persons employed as jail officers or custodial officers under the provisions of this title. The sheriff shall establish minimum performance standards and management practices to govern the employees for whom the sheriff is responsible.

E. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

**2. That Board of Local and Regional Jails shall review the behavioral health screening and assessment process for individuals committed to local correctional facilities to (i) identify barriers to ensuring that all behavioral health assessments are completed within 72 hours of completion of the behavioral health screening and (ii) develop recommendations for addressing those barriers to ensure that all behavioral health assessments are completed within 72 hours of completion of the behavioral health screening in local correctional facilities. The Board shall report its findings and recommendations to the Secretary of Public Safety and Homeland Security and the Chairmen of the House Committees on Health, Welfare and Institutions and Public Safety and the Senate Committee on Rehabilitation and Social Services by October 1, 2021.**