

22106128D

HOUSE BILL NO. 1341

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on February 7, 2022)

(Patron Prior to Substitute—Delegate Brewer)

A BILL to amend and reenact § 53.1-68 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513 and by adding in Chapter 6 of Title 37.2 a section numbered 37.2-616, relating to local correctional facilities and lock-ups; transfer of individuals in need of behavioral health.

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-68 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 5 of Title 37.2 a section numbered 37.2-513 and by adding in Chapter 6 of Title 37.2 a section numbered 37.2-616 as follows:

§ 37.2-513. Coordination of services for certain individuals in local correctional facilities.

Every community services board shall, upon notification by a local correctional facility that an individual committed to the local correctional facility has been determined to have severe mental illness, arrange for the admission of such individual to a mental health facility for treatment. Admission of an individual pursuant to this section shall occur within 72 hours of receipt of notification of the need for admission.

§ 37.2-616. Coordination of services for certain individuals in local correctional facilities.

Every behavioral health authority shall, upon notification by a local correctional facility that an individual committed to the local correctional facility has been determined to have severe mental illness, arrange for the admission of such individual to a mental health facility for treatment. Admission of an individual pursuant to this section shall occur within 72 hours of receipt of notification of the need for admission.

§ 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 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~~ individual may have mental illness to a behavioral health service provider for a behavioral health assessment; ~~and~~ (iii) in cases in which an individual is determined to have severe mental illness, prompt notification of the local community services board or behavioral health authority regarding the need to arrange for admission of the individual to a mental health facility for mental health treatment and the transfer of such individual to the mental health facility designated by the community services board or behavioral health authority within 72 hours of such notification in accordance with § 37.2-513 or § 37.2-616, as appropriate, and, in all other cases, the provision of

60 behavioral health services in local correctional facilities; as well as regulations directing; and (iv) the
61 sharing of medical and mental health information and records in accordance with § 53.1-133.03.
62 Requirements related to behavioral health screenings and assessments shall include a requirement that in
63 cases in which there is reason to believe an individual is experiencing acute mental health distress or is
64 at risk for suicide, (a) staff of the local correctional facility shall consult with the behavioral health
65 service provider to implement immediate interventions and shall provide ongoing monitoring to ensure
66 the safety of the individual and (b) the behavioral health assessment shall be completed within 72 hours
67 of completion of the behavioral health screening, except that if the 72-hour period ends on a day that is
68 a Saturday, Sunday, or legal holiday, the assessment shall be completed by the close of business on the
69 next day that is not a Saturday, Sunday, or legal holiday;

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

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

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

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

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