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## SENATE BILL NO. 1287

Offered January 10, 2007

Prefiled January 10, 2007

A BILL to amend and reenact § 22.1-344.1 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 6 of Title 53.1 an article numbered 5, consisting of sections numbered 53.1-202.5 and 53.1-202.6, relating to eligibility for good conduct allowances; classification system; mandatory functional literacy requirement.

Patron—Marsh

Referred to Committee on Education and Health

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

1. That the Code of Virginia is amended by adding in Chapter 6 of Title 53.1 an article numbered 5, consisting of sections numbered 53.1-202.5 and 53.1-202.6, and that § 22.1-344.1 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-344.1. Literacy program.

In coordination with the Department of Corrections and the Parole Board, the Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the eighth ninth grade level. The program shall include guidelines for implementation and test administration, participation requirements, and criteria for satisfactory completion.

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

## Article 5.

Good Conduct Allowance for Persons Committed on or after January 1, 1995.

§ 53.1-202.5. Eligibility for good conduct allowance; application.

A. In addition to sentence credits earned as provided in Article 4 (§ 53.1-202.2 et seq.), each person who, on or after January 1, 1995, has been convicted of a felony, or misdemeanor subject to §§ 53.1-151, 53.1-152, or 53.1-153 may receive a good conduct allowance not to exceed the amount set forth below. Such good conduct allowance shall apply to reduce the person's maximum term of confinement while incarcerated in any state correctional facility.

B. Any person who, on or after January 1, 1995, has been sentenced upon a felony conviction pursuant to §§ 18.2-61, 18.2-67.1, 18.2-67.2, or 18.2-67.3, or to a conviction of murder in the first degree pursuant to § 18.2-32, and any person who has been sentenced to at least one term of life imprisonment shall be classified within the system established by § 53.1-201. Such person shall be eligible for no more than three days good conduct allowance for each 30 days served, regardless of the class to which he is assigned. The Board of Corrections may approve additional good conduct allowance for such persons in accordance with § 53.1-191.

C. The Board shall base its determination of good conduct allowances on the following four-level classification system:

1. Prisoners classified as Class I shall earn good conduct allowance at a rate of no more than 10 days credit for each 30 days served. Class I shall be reserved for persons whose initiative, conduct, and performance in their assignments are exemplary and who (i) have earned, or are making satisfactory progress toward earning, a high school diploma or equivalent certification, or (ii) have completed or are making satisfactory progress toward completing an accredited vocational training program. Consideration for Class I credit shall be given to persons who perform in assignments requiring a high degree of trust, long hours, or specialized skills.

2. Prisoners classified as Class II shall earn good conduct allowance at a rate of no more than 7 days credit for each 30 days served. Class II shall be reserved for persons whose initiative, conduct, and performance in their assignments are satisfactory. Consideration for Class II credit shall be given to persons who require moderate supervision in their assignments and whose assignments require responsibility in the care and maintenance of property.

3. Prisoners classified as Class III shall earn good conduct allowance at a rate of no more than 4.5 days credit for each 30 days served. Class III shall be reserved for persons whose conduct and performance in their assignments are marginal. Persons requiring intensive supervision in their assignments and exhibiting minor disciplinary problems may be assigned to Class III.

4. Prisoners classified as Class IV shall earn good conduct allowance at a rate of no credit for each 30 days served. Class IV shall be reserved for persons who are in isolation or segregation status for

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59 disciplinary or security reasons and persons whose conduct and performance in their assignments are so  
60 unsatisfactory as to eliminate consideration for good conduct allowance.

61 Persons may be reclassified for an increase or decrease in class according to rules and regulations  
62 established pursuant to law.

63 C.1. The Secretary of Public Safety shall direct the Department of Corrections and the Department  
64 of Correctional Education to administer a mandatory functional literacy program, as defined in  
65 §§ 22.1-342, 22.1-344, and 22.1-344.1, for all mentally capable inmates who are not functionally literate  
66 in each state correctional institution by January 1, 2007.

67 2. Each mandatory functional literacy program shall include a requirement that each inmate  
68 participate in such program for a period sufficient to provide the inmate with an adequate opportunity  
69 to achieve functional literacy and shall offer appropriate incentives that lead to successful completion of  
70 such program.

71 3. As used in this section, the term "functional literacy" means:

72 a. Educational skills necessary to function independently in society, including, but not limited to,  
73 reading, writing, comprehension, and mathematical computation; and

74 b. Completion of such literacy program, which shall include testing on a nationally recognized  
75 standardized test at a ninth grade level or higher, so as to qualify for General Educational Development  
76 (GED) certification.

77 4. Non-English-speaking inmates shall be required to participate in an  
78 English-As-A-Second-Language program, if available, until they function at the equivalence of the ninth  
79 grade on a nationally recognized educational achievement test.

80 5. The principal of each Department of Correctional Education adult school shall have the authority  
81 to grant an exemption for participation in the functional literacy program for good cause as determined  
82 by the Board of Correctional Education and documented on an individual basis.

83 D. Upon receipt by the Department, persons who have been confined while awaiting transfer to a  
84 state correctional facility shall receive credit for such time as certified to the Department in accordance  
85 with §§ 53.1-116 and 53.1-129 and as otherwise provided by law. The Department shall apply certified  
86 good conduct allowance to reduce the person's maximum term of confinement.

87 §53.1-202.6. Eligibility for additional Reading for Good Time credits; application.

88 A. Beginning July 1, 2007, and notwithstanding any other provision of law, every person who, on or  
89 after January 1, 1995, has been convicted of a felony and every person convicted of a misdemeanor and  
90 subject to § 53.1-151, 53.1-152, or 53.1-153 may earn additional Reading for Good Time (RGT) credits  
91 not to exceed the amount set forth below. Such credits shall apply to reduce the person's maximum term  
92 of confinement while confined in any state correctional facility.

93 Any person who, on or after July 1, 1995, has been sentenced upon a felony conviction pursuant to  
94 §§ 18.2-61, 18.2-67.1, 18.2-67.2, or 18.2-67.3, or to a conviction of murder in the first degree pursuant  
95 to § 18.2-32, and any person who has been sentenced to at least one term of life imprisonment shall be  
96 classified within the system established by § 53.1-201. Such person shall be eligible for no more than  
97 three days good conduct allowance for each 30 days served, regardless of the class to which he is  
98 assigned. The Board of Corrections may approve additional good conduct allowance for such persons in  
99 accordance with § 53.1-191.

100 B. Regulations approved by the Board shall govern the earning of additional RGT credits. The  
101 regulations shall require that a prisoner may receive credit toward the service of the prisoner's  
102 sentence, beyond the time served and in addition to any other credit or allowance earned, of up to 10  
103 days at the end of each year of the prisoner's term of imprisonment, beginning at the end of the first  
104 year of the term, subject to determination by the Department of Corrections that, during that year, the  
105 prisoner has displayed compliance with institutional disciplinary regulations and satisfactorily completed  
106 the requirements of the RGT program. Such requirements shall include completely reading and passing  
107 a comprehension test on approved novels or literature under program mandates determined by the  
108 Department of Correctional Education. Credit that has not been earned may not later be granted. Credit  
109 awarded under this section shall vest on the last day of each calendar year. Department of Correctional  
110 Education personnel shall determine compliance with the program and comprehension testing.

111 C. The Secretary of Public Safety shall direct the Department of Corrections and the Department of  
112 Correctional Education to have in effect a Reading for Good Time program with appropriate testing  
113 materials and criteria in each state correctional institution by July 1, 2007.