

15101810D

SENATE BILL NO. 1258

Offered January 14, 2015

Prefiled January 14, 2015

A BILL to amend and reenact §§ 53.1-10 and 53.1-31.1 of the Code of Virginia, relating to Department of Corrections; interstate transportation of prisoners.

Patron—Deeds

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-10 and 53.1-31.1 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-10. Powers and duties of Director.

The Director shall be the chief executive officer of the Department and shall have the following duties and powers:

1. To supervise and manage the Department and its system of state correctional facilities;
2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;
3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;

4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8. Such system shall include, as applicable, elementary, secondary, post-secondary, career and technical education, adult, and special education schools.

a. The Director shall employ a Superintendent who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in §§ 53.1-67.7 and 53.1-67.8 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.

b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade level. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment in college or an accredited vocational training program or other accredited continuing education program.

d. 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.

e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent shall create a system for identifying prisoners with learning disabilities.

5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

c. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers

INTRODUCED

SB1258

59 *under this title, upon determining that it is necessary to transport Virginia prisoners through or to*
60 *another state and for other states to transport their prisoners within the Commonwealth, the Director*
61 *may execute reciprocal agreements with other states' corrections agencies governing such transports that*
62 *shall include provisions allowing each state to retain authority over its prisoners while in the other*
63 *state.*

64 6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the
65 United States government and agencies and instrumentalities thereof, and any other source, subject to the
66 approval of the Governor. To these ends, the Director shall have the power to comply with such
67 conditions and execute such agreements as may be necessary, convenient or desirable, consistent with
68 applicable standards and goals of the Board;

69 7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are
70 adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race
71 or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the
72 types of and extent to which health-related problems are prevalent among such persons. Beginning July
73 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor
74 and the General Assembly at each regular session of the General Assembly thereafter. The report shall
75 be submitted as provided in the procedures of the Division of Legislative Automated Systems for the
76 processing of legislative documents and reports;

77 8. To make application to the appropriate state and federal entities so as to provide any prisoner who
78 is committed to the custody of the state a Department of Motor Vehicles approved identification card
79 that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the
80 Commonwealth, and a social security card from the Social Security Administration;

81 9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list
82 of all identified criminal gang members incarcerated in state correctional institutions. The list shall
83 contain identifying information for each criminal gang member, as well as his criminal record;

84 10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that
85 occurred in a state correctional facility, of that defendant's known gang membership. The notice shall
86 contain identifying information for each criminal gang member as well as his criminal record; and

87 11. To designate employees of the Department with internal investigations authority to have the same
88 power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior
89 affecting the operations of the Department. Such employees shall be subject to any minimum training
90 standards established by the Department of Criminal Justice Services under § 9.1-102 for
91 law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision.
92 Nothing in this section shall be construed to grant the Department any authority over the operation and
93 security of local jails not specified in any other provision of law. The Department shall investigate
94 allegations of criminal behavior in accordance with a written agreement entered into with the
95 Department of State Police. The Department shall not investigate any action falling within the authority
96 vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title
97 2.2 unless specifically authorized by the Office of the State Inspector General.

98 **§ 53.1-31.1. Transportation of prisoners.**

99 A. Notwithstanding any other provision of law, the Department shall provide all transportation to and
100 from court for any prisoner in connection with a crime committed within a state correctional facility, or
101 a facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.), unless the
102 affected sheriff and the Department agree on other transportation. Auxiliary police forces established
103 under § 15.2-1731 who have met the training requirements of § 9.1-102, with the concurrence of the
104 sheriff or other chief law-enforcement officer as appropriate, are specifically authorized to provide such
105 transportation.

106 B. *Authorized corrections personnel from any other state, the United States, and any political*
107 *subdivisions thereof who transport a prisoner through the Commonwealth, deliver a prisoner to the*
108 *Commonwealth, or take custody of a prisoner in the Commonwealth for transport to another jurisdiction*
109 *are deemed to have lawful custody of such prisoner while in the Commonwealth.*

110 C. *Authorized Virginia corrections personnel who have a need to travel with a prisoner through or*
111 *to another state are authorized to travel through such state and retain authority over such prisoner as*
112 *allowed by such state.*