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SENATE BILL NO. 1023

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety
on February 21, 2020)

(Patron Prior to Substitute—Senator Peake)

A BILL to amend and reenact § 19.2-59.1 of the Code of Virginia, relating to strip searches of children.

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-59.1 of the Code of Virginia is amended and reenacted as follows:

§ 19.2-59.1. Strip searches prohibited; exceptions; how strip searches conducted.

A. No person in custodial arrest for a traffic infraction, Class 3 or Class 4 misdemeanor, or a violation of a city, county, or town ordinance, which is punishable by no more than ~~thirty~~ 30 days in jail shall be strip searched unless there is reasonable cause to believe on the part of a law-enforcement officer authorizing the search that the individual is concealing a weapon. All strip searches conducted under this section shall be performed by persons of the same sex as the person arrested and on premises where the search cannot be observed by persons not physically conducting the search.

B. A regional jail superintendent or the chief of police or the sheriff of the county or city shall develop a written policy regarding strip searches.

C. A search of any body cavity must be performed under sanitary conditions and a search of any body cavity, other than the mouth, shall be conducted either by or under the supervision of medically trained personnel.

D. Strip searches authorized pursuant to the exceptions stated in subsection A of this section shall be conducted by a law-enforcement officer as defined in § 9.1-101.

E. The provisions of this section shall not apply when the person is taken into custody by or remanded to a law-enforcement officer pursuant to a circuit or district court order.

F. For purposes of this section, "strip search" ~~shall mean~~ *means* having an arrested person remove or arrange some or all of his clothing so as to permit a visual inspection of the genitals, buttocks, anus, female breasts, or undergarments of such person.

G. Nothing in this section shall prohibit a sheriff or a regional jail superintendent from requiring that inmates take hot water and soap showers and be subjected to visual inspection upon assignment to the general population area of the jail or upon determination by the sheriff or regional jail superintendent that the inmate must be held at the jail by reason of his inability to post bond after reasonable opportunity to do so.

H. *Except for children committed to the Department of Juvenile Justice or confined or detained in a secure local facility for juveniles or a jail or other facility for the detention of adults and except as provided in subsection A or E, (i) no child under the age of 14 shall be strip searched and (ii) a child who is 14 years of age or older but under 18 years of age shall not be strip searched unless the child and such child's parent, guardian, or other person responsible for the care of such child has authorized or consented to the strip search of such child. No person shall be denied noncontact visitation on the basis of withholding such authorization or consent.*