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SENATE BILL NO. 1023

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 5, 2020)

(Patron Prior to Substitute—Senator Peake)

A BILL to amend and reenact § 53.1-30 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 53.1 a section numbered 53.1-1.2, relating to state correctional facilities; visitation policies.

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-30 the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 53.1 a section numbered 53.1-1.2 as follows:
§ 53.1-1.2. Visitation policies.

The following procedures regarding individuals who are physically present at a state correctional facility for the purpose of visiting a prisoner shall apply:

1. Upon entry into a state correctional facility, visitors shall be informed of the items that they are not permitted to bring into the facility and the items that they are permitted to bring into the facility.

2. If an item that is otherwise legal for the visitor to possess is not permitted in the facility, the item may be placed in the possession of facility employees, if the facility is able to store such item, for the duration of the visit and returned to the visitor upon leaving the facility.

3. If equipment is available, visitors shall be scanned or wanded by an electronic scanning or detection device, or both.

4. If detector canines are available, visitors shall be subjected to a detector canine search.

5. If the detector canine search, scanning, or wandling does not indicate any contraband and the visitor is otherwise eligible to visit, the visitor shall be allowed a visit with the prisoner that allows personal contact.

6. If the detector canine search, scanning, or wandling indicates the possibility of contraband, the visitor shall have the option of consenting to a search of his person. If the visitor does not consent to a search of his person after only a detector canine search indicates the possibility of contraband and the visitor is otherwise eligible to visit, he shall be allowed a visit with the prisoner that does not allow personal contact. If the visitor does not consent to a search of his person after scanning or wandling indicates the possibility of contraband, the Department may deny the visitor entry into the facility in accordance with the operating procedures regarding visiting privileges as authorized by § 53.1-30.

7. A visitor shall be allowed to leave the correctional facility and discontinue the search process prior to the discovery of contraband. A visitor shall not be barred from future visits because he stops a search prior to the discovery of contraband or refuses to consent to a search of his person, including refusing to consent to a strip search or a search of any body cavity. Correctional facility personnel shall not use the search procedure or search results as a threat to bar future visits. The superintendent, warden, or other official in charge of the facility shall ensure that correctional facility personnel do not use the search procedure or search results as a threat to bar future visits.

§ 53.1-30. Who may enter interior of state correctional facilities; searches of those entering.

A. The Governor, members of the General Assembly, and members of the Board of Corrections may go into the interior of any state correctional facility. Attorneys shall be permitted in the interior of a state correctional facility to confer with prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved. The Director shall prescribe, subject to approval of the Board, the time and conditions on which attorneys and other persons may enter any state correctional facility.

B. The Department shall promulgate a policy to assist a person who was a victim of a crime committed by an offender incarcerated in any state correctional facility to visit with such offender. Such policy may include provisions necessary to preserve the safety and security of those at such visit and the good order of the facility, including consideration of the offender's security level, crime committed, and institutional behavior of the offender. The Department shall make whatever arrangements are necessary to effectuate such a visit. This subsection shall not apply to juvenile victims.

C. Any person seeking to enter the interior of any state correctional facility shall be subject to a search of his person and effects, as provided in § 53.1-1.2. Such search shall be performed in a manner reasonable under the circumstances and may be a condition precedent to entering a correctional facility. However, no child under the age of 18 shall be strip searched or subjected to a search of any body cavity under any circumstances.

D. The Department may not permanently ban any person, or insinuate that any person will be permanently banned, from seeking entrance to a state correctional facility on the basis of such person's

60 *refusal to consent to a strip search or a search of any body cavity when such person is seeking to enter*
61 *the interior of any state correctional facility. If a person refuses to consent to a strip search or a search*
62 *of any body cavity when such person is seeking to enter the interior of any state correctional facility,*
63 *the Department may deny such person entry to the facility, unless otherwise provided by law, but may*
64 *not deny such person any future entry on the basis of a prior refusal to consent.*