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SENATE BILL NO. 622**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 24, 2020)

(Patron Prior to Substitute—Senator Deeds)

A *BILL to amend and reenact §§ 2.2-507, 2.2-3711, 15.2-1615, 16.1-249, 16.1-269.5, 16.1-309.9, 19.2-354, 53.1-1, 53.1-2, 53.1-5, 53.1-6, 53.1-8, 53.1-10, 53.1-18, 53.1-19, 53.1-24, 53.1-30, 53.1-31, 53.1-32, 53.1-32.01, 53.1-32.1, 53.1-37, 53.1-39, 53.1-42, 53.1-43, 53.1-60, 53.1-63, 53.1-63.1, 53.1-67.4, 53.1-67.5, 53.1-95.20, 53.1-106, 53.1-131, 53.1-131.2, 53.1-133.01, 53.1-133.03, 53.1-145, 53.1-150.1, 53.1-154.1, 53.1-164, 53.1-178, 53.1-179, 53.1-189, 53.1-191, 53.1-199, 53.1-200, 53.1-202.4, 53.1-228.1, 53.1-262, and 53.1-266 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 53.1-6.1 and 53.1-69.2, and to repeal §§ 53.1-5.1 and 53.1-15 of the Code of Virginia, relating to the State Board of Corrections; rename as State Board of Local and Regional Jails; powers and duties; local correctional facilities; appeals of noncompliance determinations.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-507, 2.2-3711, 15.2-1615, 16.1-249, 16.1-269.5, 16.1-309.9, 19.2-354, 53.1-1, 53.1-2, 53.1-5, 53.1-6, 53.1-8, 53.1-10, 53.1-18, 53.1-19, 53.1-24, 53.1-30, 53.1-31, 53.1-32, 53.1-32.01, 53.1-32.1, 53.1-37, 53.1-39, 53.1-42, 53.1-43, 53.1-60, 53.1-63, 53.1-63.1, 53.1-67.4, 53.1-67.5, 53.1-95.20, 53.1-106, 53.1-131, 53.1-131.2, 53.1-133.01, 53.1-133.03, 53.1-145, 53.1-150.1, 53.1-154.1, 53.1-164, 53.1-178, 53.1-179, 53.1-189, 53.1-191, 53.1-199, 53.1-200, 53.1-202.4, 53.1-228.1, 53.1-262, and 53.1-266 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 53.1-6.1 and 53.1-69.2 as follows:

§ 2.2-507. Legal service in civil matters.

A. All legal service in civil matters for the Commonwealth, the Governor, and every state department, institution, division, commission, board, bureau, agency, entity, official, court, or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any state department, institution, division, commission, board, bureau, agency, entity, or official. The Attorney General may represent personally or through one or more of his assistants any number of state departments, institutions, divisions, commissions, boards, bureaus, agencies, entities, officials, courts, or judges that are parties to the same transaction or that are parties in the same civil or administrative proceeding and may represent multiple interests within the same department, institution, division, commission, board, bureau, agency, or entity. The soil and water conservation district directors or districts may request legal advice from local, public, or private sources; however, upon request of the soil and water conservation district directors or districts, the Attorney General shall provide legal service in civil matters for such district directors or districts.

B. The Attorney General may represent personally or through one of his assistants any of the following persons who are made defendant in any civil action for damages arising out of any matter connected with their official duties:

1. Members, agents, or employees of the Virginia Alcoholic Beverage Control Authority;
2. Agents inspecting or investigators appointed by the State Corporation Commission;
3. Agents, investigators, or auditors employed by the Department of Taxation;
4. Members, agents, or employees of the State Board of Behavioral Health and Developmental Services, the Department of Behavioral Health and Developmental Services, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of Social Services, the Department of Social Services, the State Board of ~~Corrections~~ *Local and Regional Jails*, the Department of Corrections, the State Board of Juvenile Justice, the Department of Juvenile Justice, the Virginia Parole Board, or the Department of Agriculture and Consumer Services;
5. Persons employed by the Commonwealth Transportation Board, the Department of Transportation, or the Department of Rail and Public Transportation;
6. Persons employed by the Commissioner of Motor Vehicles;
7. Persons appointed by the Commissioner of Marine Resources;
8. Police officers appointed by the Superintendent of State Police;
9. Conservation police officers appointed by the Department of Game and Inland Fisheries;
10. Hearing officers appointed to hear a teacher's grievance pursuant to § 22.1-311;
11. Staff members or volunteers participating in a court-appointed special advocate program pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;

12. Any emergency medical services agency that is a licensee of the Department of Health in any civil matter and any guardian ad litem appointed by a court in a civil matter brought against him for alleged errors or omissions in the discharge of his court-appointed duties;

13. Conservation officers of the Department of Conservation and Recreation; or

14. A person appointed by written order of a circuit court judge to run an existing corporation or company as the judge's representative, when that person is acting in execution of a lawful order of the court and the order specifically refers to this section and appoints such person to serve as an agent of the Commonwealth.

Upon request of the affected individual, the Attorney General may represent personally or through one of his assistants (i) any basic or advanced emergency medical care attendant or technician possessing a valid certificate issued by authority of the State Board of Health in any civil matter in which a defense of immunity from liability is raised pursuant to § 8.01-225 or (ii) any member of the General Assembly in any civil matter alleging that such member in his official capacity violated the Virginia Freedom of Information Act (§ 2.2-3700 et seq.) pursuant to § 2.2-3713 or 2.2-3714.

C. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General. The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division, or department being represented or whose members, officers, inspectors, investigators, or other employees are being represented pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

D. Nothing herein shall limit the powers granted in § 16.1-88.03.

§ 2.2-3711. Closed meetings authorized for certain limited purposes.

A. Public bodies may hold closed meetings only for the following purposes:

1. Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals. Any teacher shall be permitted to be present during a closed meeting in which there is a discussion or consideration of a disciplinary matter that involves the teacher and some student and the student involved in the matter is present, provided the teacher makes a written request to be present to the presiding officer of the appropriate board. Nothing in this subdivision, however, shall be construed to authorize a closed meeting by a local governing body or an elected school board to discuss compensation matters that affect the membership of such body or board collectively.

2. Discussion or consideration of admission or disciplinary matters or any other matters that would involve the disclosure of information contained in a scholastic record concerning any student of any public institution of higher education in the Commonwealth or any state school system. However, any such student, legal counsel and, if the student is a minor, the student's parents or legal guardians shall be permitted to be present during the taking of testimony or presentation of evidence at a closed meeting, if such student, parents, or guardians so request in writing and such request is submitted to the presiding officer of the appropriate board.

3. Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

4. The protection of the privacy of individuals in personal matters not related to public business.

5. Discussion concerning a prospective business or industry or the expansion of an existing business or industry where no previous announcement has been made of the business' or industry's interest in locating or expanding its facilities in the community.

6. Discussion or consideration of the investment of public funds where competition or bargaining is involved, where, if made public initially, the financial interest of the governmental unit would be adversely affected.

7. Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body. For the purposes of this subdivision, "probable litigation" means litigation that has been specifically threatened or on which the public body or its legal counsel has a reasonable basis to believe will be commenced by or against a known party. Nothing in this subdivision shall be construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

8. Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel. Nothing in this subdivision shall be

construed to permit the closure of a meeting merely because an attorney representing the public body is in attendance or is consulted on a matter.

9. Discussion or consideration by governing boards of public institutions of higher education of matters relating to gifts, bequests and fund-raising activities, and of grants and contracts for services or work to be performed by such institution. However, the terms and conditions of any such gifts, bequests, grants, and contracts made by a foreign government, a foreign legal entity, or a foreign person and accepted by a public institution of higher education in the Commonwealth shall be subject to public disclosure upon written request to the appropriate board of visitors. For the purpose of this subdivision, (i) "foreign government" means any government other than the United States government or the government of a state or a political subdivision thereof, (ii) "foreign legal entity" means any legal entity (a) created under the laws of the United States or of any state thereof if a majority of the ownership of the stock of such legal entity is owned by foreign governments or foreign persons or if a majority of the membership of any such entity is composed of foreign persons or foreign legal entities or (b) created under the laws of a foreign government, and (iii) "foreign person" means any individual who is not a citizen or national of the United States or a trust territory or protectorate thereof.

10. Discussion or consideration by the boards of trustees of the Virginia Museum of Fine Arts, the Virginia Museum of Natural History, the Jamestown-Yorktown Foundation, the Fort Monroe Authority, and The Science Museum of Virginia of matters relating to specific gifts, bequests, and grants from private sources.

11. Discussion or consideration of honorary degrees or special awards.

12. Discussion or consideration of tests, examinations, or other information used, administered, or prepared by a public body and subject to the exclusion in subdivision 4 of § 2.2-3705.1.

13. Discussion, consideration, or review by the appropriate House or Senate committees of possible disciplinary action against a member arising out of the possible inadequacy of the disclosure statement filed by the member, provided the member may request in writing that the committee meeting not be conducted in a closed meeting.

14. Discussion of strategy with respect to the negotiation of a hazardous waste siting agreement or to consider the terms, conditions, and provisions of a hazardous waste siting agreement if the governing body in open meeting finds that an open meeting will have an adverse effect upon the negotiating position of the governing body or the establishment of the terms, conditions and provisions of the siting agreement, or both. All discussions with the applicant or its representatives may be conducted in a closed meeting.

15. Discussion by the Governor and any economic advisory board reviewing forecasts of economic activity and estimating general and nongeneral fund revenues.

16. Discussion or consideration of medical and mental health records subject to the exclusion in subdivision 1 of § 2.2-3705.5.

17. Deliberations of the Virginia Lottery Board in a licensing appeal action conducted pursuant to subsection D of § 58.1-4007 regarding the denial or revocation of a license of a lottery sales agent; and discussion, consideration or review of Virginia Lottery matters related to proprietary lottery game information and studies or investigations excluded from disclosure under subdivision 6 of § 2.2-3705.3 and subdivision 11 of § 2.2-3705.7.

18. Those portions of meetings in which the ~~State Board of Corrections~~ *Local and Regional Jails* discusses or discloses the identity of, or information tending to identify, any prisoner who (i) provides information about crimes or criminal activities, (ii) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner, or (iii) voluntarily or at the instance of a prison official renders other extraordinary services, the disclosure of which is likely to jeopardize the prisoner's life or safety.

19. Discussion of plans to protect public safety as it relates to terrorist activity or specific cybersecurity threats or vulnerabilities and briefings by staff members, legal counsel, or law-enforcement or emergency service officials concerning actions taken to respond to such matters or a related threat to public safety; discussion of information subject to the exclusion in subdivision 2 or 14 of § 2.2-3705.2, where discussion in an open meeting would jeopardize the safety of any person or the security of any facility, building, structure, information technology system, or software program; or discussion of reports or plans related to the security of any governmental facility, building or structure, or the safety of persons using such facility, building or structure.

20. Discussion by the Board of the Virginia Retirement System, acting pursuant to § 51.1-124.30, or of any local retirement system, acting pursuant to § 51.1-803, or by a local finance board or board of trustees of a trust established by one or more local public bodies to invest funds for postemployment benefits other than pensions, acting pursuant to Article 8 (§ 15.2-1544 et seq.) of Chapter 15 of Title 15.2, or by the board of visitors of the University of Virginia, acting pursuant to § 23.1-2210, or by the Board of the Virginia College Savings Plan, acting pursuant to § 23.1-706, regarding the acquisition,

183 holding or disposition of a security or other ownership interest in an entity, where such security or
184 ownership interest is not traded on a governmentally regulated securities exchange, to the extent that
185 such discussion (i) concerns confidential analyses prepared for the board of visitors of the University of
186 Virginia, prepared by the retirement system, or a local finance board or board of trustees, or the Virginia
187 College Savings Plan or provided to the retirement system, a local finance board or board of trustees, or
188 the Virginia College Savings Plan under a promise of confidentiality, of the future value of such
189 ownership interest or the future financial performance of the entity, and (ii) would have an adverse
190 effect on the value of the investment to be acquired, held, or disposed of by the retirement system, a
191 local finance board or board of trustees, the board of visitors of the University of Virginia, or the
192 Virginia College Savings Plan. Nothing in this subdivision shall be construed to prevent the disclosure
193 of information relating to the identity of any investment held, the amount invested or the present value
194 of such investment.

195 21. Those portions of meetings in which individual child death cases are discussed by the State Child
196 Fatality Review Team established pursuant to § 32.1-283.1, those portions of meetings in which
197 individual child death cases are discussed by a regional or local child fatality review team established
198 pursuant to § 32.1-283.2, those portions of meetings in which individual death cases are discussed by
199 family violence fatality review teams established pursuant to § 32.1-283.3, those portions of meetings in
200 which individual adult death cases are discussed by the state Adult Fatality Review Team established
201 pursuant to § 32.1-283.5, those portions of meetings in which individual adult death cases are discussed
202 by a local or regional adult fatality review team established pursuant to § 32.1-283.6, those portions of
203 meetings in which individual death cases are discussed by overdose fatality review teams established
204 pursuant to § 32.1-283.7, and those portions of meetings in which individual maternal death cases are
205 discussed by the Maternal Mortality Review Team pursuant to § 32.1-283.8.

206 22. Those portions of meetings of the board of visitors of the University of Virginia or the Eastern
207 Virginia Medical School Board of Visitors, as the case may be, and those portions of meetings of any
208 persons to whom management responsibilities for the University of Virginia Medical Center or Eastern
209 Virginia Medical School, as the case may be, have been delegated, in which there is discussed
210 proprietary, business-related information pertaining to the operations of the University of Virginia
211 Medical Center or Eastern Virginia Medical School, as the case may be, including business development
212 or marketing strategies and activities with existing or future joint venturers, partners, or other parties
213 with whom the University of Virginia Medical Center or Eastern Virginia Medical School, as the case
214 may be, has formed, or forms, any arrangement for the delivery of health care, if disclosure of such
215 information would adversely affect the competitive position of the Medical Center or Eastern Virginia
216 Medical School, as the case may be.

217 23. Discussion or consideration by the Virginia Commonwealth University Health System Authority
218 or the board of visitors of Virginia Commonwealth University of any of the following: the acquisition or
219 disposition by the Authority of real property, equipment, or technology software or hardware and related
220 goods or services, where disclosure would adversely affect the bargaining position or negotiating
221 strategy of the Authority; matters relating to gifts or bequests to, and fund-raising activities of, the
222 Authority; grants and contracts for services or work to be performed by the Authority; marketing or
223 operational strategies plans of the Authority where disclosure of such strategies or plans would adversely
224 affect the competitive position of the Authority; and members of the Authority's medical and teaching
225 staffs and qualifications for appointments thereto.

226 24. Those portions of the meetings of the Health Practitioners' Monitoring Program Committee within
227 the Department of Health Professions to the extent such discussions identify any practitioner who may
228 be, or who actually is, impaired pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1.

229 25. Meetings or portions of meetings of the Board of the Virginia College Savings Plan wherein
230 personal information, as defined in § 2.2-3801, which has been provided to the Board or its employees
231 by or on behalf of individuals who have requested information about, applied for, or entered into
232 prepaid tuition contracts or savings trust account agreements pursuant to Chapter 7 (§ 23.1-700 et seq.)
233 of Title 23.1 is discussed.

234 26. Discussion or consideration, by the former Wireless Carrier E-911 Cost Recovery Subcommittee
235 created pursuant to former § 56-484.15, of trade secrets submitted by CMRS providers, as defined in
236 § 56-484.12, related to the provision of wireless E-911 service.

237 27. Those portions of disciplinary proceedings by any regulatory board within the Department of
238 Professional and Occupational Regulation, Department of Health Professions, or the Board of
239 Accountancy conducted pursuant to § 2.2-4019 or 2.2-4020 during which the board deliberates to reach
240 a decision or meetings of health regulatory boards or conference committees of such boards to consider
241 settlement proposals in pending disciplinary actions or modifications to previously issued board orders as
242 requested by either of the parties.

243 28. Discussion or consideration of information subject to the exclusion in subdivision 11 of
244 § 2.2-3705.6 by a responsible public entity or an affected locality or public entity, as those terms are

defined in § 33.2-1800, or any independent review panel appointed to review information and advise the responsible public entity concerning such records.

29. Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body.

30. Discussion or consideration of grant or loan application information subject to the exclusion in subdivision 17 of § 2.2-3705.6 by (i) the Commonwealth Health Research Board or (ii) the Innovation and Entrepreneurship Investment Authority or the Research and Technology Investment Advisory Committee appointed to advise the Innovation and Entrepreneurship Investment Authority.

31. Discussion or consideration by the Commitment Review Committee of information subject to the exclusion in subdivision 5 of § 2.2-3705.2 relating to individuals subject to commitment as sexually violent predators under Chapter 9 (§ 37.2-900 et seq.) of Title 37.2.

32. Discussion or consideration of confidential proprietary information and trade secrets developed and held by a local public body providing certain telecommunication services or cable television services and subject to the exclusion in subdivision 18 of § 2.2-3705.6. However, the exemption provided by this subdivision shall not apply to any authority created pursuant to the BVU Authority Act (§ 15.2-7200 et seq.).

33. Discussion or consideration by a local authority created in accordance with the Virginia Wireless Service Authorities Act (§ 15.2-5431.1 et seq.) of confidential proprietary information and trade secrets subject to the exclusion in subdivision 19 of § 2.2-3705.6.

34. Discussion or consideration by the State Board of Elections or local electoral boards of voting security matters made confidential pursuant to § 24.2-410.2 or 24.2-625.1.

35. Discussion or consideration by the Forensic Science Board or the Scientific Advisory Committee created pursuant to Article 2 (§ 9.1-1109 et seq.) of Chapter 11 of Title 9.1 of criminal investigative files subject to the exclusion in subdivision B 1 of § 2.2-3706.

36. Discussion or consideration by the Brown v. Board of Education Scholarship Committee of information or confidential matters subject to the exclusion in subdivision A 3 of § 2.2-3705.4, and meetings of the Committee to deliberate concerning the annual maximum scholarship award, review and consider scholarship applications and requests for scholarship award renewal, and cancel, rescind, or recover scholarship awards.

37. Discussion or consideration by the Virginia Port Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.6 related to certain proprietary information gathered by or for the Virginia Port Authority.

38. Discussion or consideration by the Board of Trustees of the Virginia Retirement System acting pursuant to § 51.1-124.30, by the Investment Advisory Committee appointed pursuant to § 51.1-124.26, by any local retirement system, acting pursuant to § 51.1-803, by the Board of the Virginia College Savings Plan acting pursuant to § 23.1-706, or by the Virginia College Savings Plan's Investment Advisory Committee appointed pursuant to § 23.1-702 of information subject to the exclusion in subdivision 24 of § 2.2-3705.7.

39. Discussion or consideration of information subject to the exclusion in subdivision 3 of § 2.2-3705.6 related to economic development.

40. Discussion or consideration by the Board of Education of information relating to the denial, suspension, or revocation of teacher licenses subject to the exclusion in subdivision 11 of § 2.2-3705.3.

41. Those portions of meetings of the Virginia Military Advisory Council or any commission created by executive order for the purpose of studying and making recommendations regarding preventing closure or realignment of federal military and national security installations and facilities located in Virginia and relocation of such facilities to Virginia, or a local or regional military affairs organization appointed by a local governing body, during which there is discussion of information subject to the exclusion in subdivision 8 of § 2.2-3705.2.

42. Discussion or consideration by the Board of Trustees of the Veterans Services Foundation of information subject to the exclusion in subdivision 28 of § 2.2-3705.7 related to personally identifiable information of donors.

43. Discussion or consideration by the Virginia Tobacco Region Revitalization Commission of information subject to the exclusion in subdivision 23 of § 2.2-3705.6 related to certain information contained in grant applications.

44. Discussion or consideration by the board of directors of the Commercial Space Flight Authority of information subject to the exclusion in subdivision 24 of § 2.2-3705.6 related to rate structures or charges for the use of projects of, the sale of products of, or services rendered by the Authority and certain proprietary information of a private entity provided to the Authority.

45. Discussion or consideration of personal and proprietary information related to the resource

management plan program and subject to the exclusion in (i) subdivision 25 of § 2.2-3705.6 or (ii) subsection E of § 10.1-104.7. This exclusion shall not apply to the discussion or consideration of records that contain information that has been certified for release by the person who is the subject of the information or transformed into a statistical or aggregate form that does not allow identification of the person who supplied, or is the subject of, the information.

46. Discussion or consideration by the Board of Directors of the Virginia Alcoholic Beverage Control Authority of information subject to the exclusion in subdivision 1 of § 2.2-3705.3 related to investigations of applicants for licenses and permits and of licensees and permittees.

47. Discussion or consideration of grant or loan application records subject to the exclusion in subdivision 28 of § 2.2-3705.6 related to the submission of an application for an award from the Virginia Research Investment Fund pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1 or interviews of parties to an application by a reviewing entity pursuant to subsection D of § 23.1-3133 or by the Virginia Research Investment Committee.

48. Discussion or development of grant proposals by a regional council established pursuant to Article 26 (§ 2.2-2484 et seq.) of Chapter 24 to be submitted for consideration to the Virginia Growth and Opportunity Board.

49. Discussion or consideration of (i) individual sexual assault cases by a sexual assault response team established pursuant to § 15.2-1627.4, (ii) individual child abuse or neglect cases or sex offenses involving a child by a child sexual abuse response team established pursuant to § 15.2-1627.5, or (iii) individual cases involving abuse, neglect, or exploitation of adults as defined in § 63.2-1603 pursuant to §§ 15.2-1627.5 and 63.2-1605.

50. Discussion or consideration by the Board of the Virginia Economic Development Partnership Authority, the Joint Legislative Audit and Review Commission, or any subcommittees thereof, of the portions of the strategic plan, marketing plan, or operational plan exempt from disclosure pursuant to subdivision 33 of § 2.2-3705.7.

51. Those portions of meetings of the subcommittee of the Board of the Virginia Economic Development Partnership Authority established pursuant to subsection F of § 2.2-2237.3 to review and discuss information received from the Virginia Employment Commission pursuant to subdivision C 2 of § 60.2-114.

B. No resolution, ordinance, rule, contract, regulation or motion adopted, passed or agreed to in a closed meeting shall become effective unless the public body, following the meeting, reconvenes in open meeting and takes a vote of the membership on such resolution, ordinance, rule, contract, regulation, or motion that shall have its substance reasonably identified in the open meeting.

C. Public officers improperly selected due to the failure of the public body to comply with the other provisions of this section shall be de facto officers and, as such, their official actions are valid until they obtain notice of the legal defect in their election.

D. Nothing in this section shall be construed to prevent the holding of conferences between two or more public bodies, or their representatives, but these conferences shall be subject to the same procedures for holding closed meetings as are applicable to any other public body.

E. This section shall not be construed to (i) require the disclosure of any contract between the Department of Health Professions and an impaired practitioner entered into pursuant to Chapter 25.1 (§ 54.1-2515 et seq.) of Title 54.1 or (ii) require the board of directors of any authority created pursuant to the Industrial Development and Revenue Bond Act (§ 15.2-4900 et seq.), or any public body empowered to issue industrial revenue bonds by general or special law, to identify a business or industry to which subdivision A 5 applies. However, such business or industry shall be identified as a matter of public record at least 30 days prior to the actual date of the board's authorization of the sale or issuance of such bonds.

§ 15.2-1615. Sheriff to deposit funds, keep account of receipts and disbursements, keep books open for inspection.

A. All money received by the sheriff shall be deposited intact and promptly with the county or city treasurer or Director of Finance, except that the sheriff shall maintain an official account for (i) funds collected for or on account of the Commonwealth or any locality or person pursuant to an order of the court and fees as provided by law and (ii) funds held in trust for prisoners held in local correctional facilities, in accordance with procedures established by the *State Board of Corrections Local and Regional Jails* pursuant to § 53.1-68.

The sheriff's official accounts shall be secured in accordance with the Virginia Security for Public Deposits Act (§ 2.2-4400 et seq.).

B. The sheriff shall keep the books, papers, receipt books and statements pertaining to the receipts and disbursements of his office at all times ready for inspection by the Auditor of Public Accounts or any other certified public accountant authorized by the governing body. Furthermore, the accounts and books of the sheriff shall be included in the audit of the local government conducted pursuant to § 15.2-2511.

§ 16.1-249. Places of confinement for juveniles.

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;
2. A facility operated by a licensed child welfare agency;
3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;
4. Any other suitable place designated by the court and approved by the Department;
5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established by any county, city or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile Justice for the holding and detention of juveniles.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F or G.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of 18 years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of subsection A of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1-269.1, the juvenile, if in confinement, shall be placed in a juvenile secure facility, unless the court determines that the juvenile is a threat to the security or safety of the other juveniles detained or the staff of the facility, in which case the court may transfer the juvenile to a jail or other facility for the detention of adults, provided that the facility is approved by the State Board of ~~Corrections~~ *Local and Regional Jails* for the detention of juveniles.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility or, if the child is 14 years of age or older, a jail or other facility for the detention of adults, provided that (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the facility is approved by the State Board of ~~Corrections~~ *Local and Regional Jails* for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is 14 years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses (i), (ii) and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If a juvenile 14 years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period not to exceed six hours prior to a court hearing and six hours after the court hearing in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided that (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.), (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of ~~Corrections~~ *Local and Regional Jails* for the detention of juveniles. The State Board of ~~Corrections~~ *Local and Regional Jails* is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours, provided that the juvenile is entirely separate and removed from detained adults, or (ii) in a nonsecure area, provided that constant supervision is provided.

H. If a judge, intake officer or magistrate orders the predispositional detention of persons 18 years of age or older, such detention shall be in an adult facility; however, if the predispositional detention is ordered for a violation of the terms and conditions of release from a juvenile correctional center, the judge, intake officer or magistrate may order such detention be in a juvenile facility.

I. The Departments of Corrections, Juvenile Justice and Criminal Justice Services shall assist the

localities or combinations thereof in implementing this section and ensuring compliance herewith.

§ 16.1-269.5. Placement of juvenile.

The juvenile court may order placement of the transferred juvenile in either a local correctional facility as approved by the State Board of ~~Corrections~~ *Local and Regional Jails* pursuant to the limitations of subsections D and E of § 16.1-249 or a juvenile detention facility.

§ 16.1-309.9. Establishment of standards; determination of compliance.

A. The State Board of Juvenile Justice shall develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by this article. The State Board shall also approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs.

B. The State Board may prohibit, by its order, the placement of juveniles in any place of residence which does not comply with the minimum standards. It may limit the number of juveniles to be detained or housed in a detention home or other facility and may designate some other place of detention or housing for juveniles who would otherwise be held therein.

C. The Department shall periodically review all services established and annually review expenditures made under this article to determine compliance with the approved local plans and operating standards. If the Department determines that a program is not in substantial compliance with the approved plan or standards, the Department may suspend all or any portion of financial aid made available to the locality until there is compliance.

D. Orders of the State Board of Juvenile Justice shall be enforced by circuit courts as is provided for the enforcement of orders of the State Board of ~~Corrections~~ *Local and Regional Jails* under § 53.1-70.

§ 19.2-354. Authority of court to order payment of fine, costs, forfeitures, penalties or restitution in installments or upon other terms and conditions; community work in lieu of payment.

A. Whenever (i) a defendant, convicted of a traffic infraction or a violation of any criminal law of the Commonwealth or of any political subdivision thereof, or found not innocent in the case of a juvenile, is sentenced to pay a fine, restitution, forfeiture or penalty and (ii) the defendant is unable to make payment of the fine, restitution, forfeiture, or penalty and costs within 30 days of sentencing, the court shall order the defendant to pay such fine, restitution, forfeiture or penalty and any costs which the defendant may be required to pay in deferred payments or installments. The court assessing the fine, restitution, forfeiture, or penalty and costs may authorize the clerk to establish and approve individual deferred or installment payment agreements. If the defendant owes court-ordered restitution and enters into a deferred or installment payment agreement, any money collected pursuant to such agreement shall be used first to satisfy such restitution order and any collection costs associated with restitution prior to being used to satisfy any other fine, forfeiture, penalty, or cost owed. Any payment agreement authorized under this section shall be consistent with the provisions of § 19.2-354.1, including any required minimum payments or other required conditions. The requirements set forth in § 19.2-354.1 shall be posted in the clerk's office and on the court's website, if a website is available. As a condition of every such agreement, a defendant who enters into an installment or deferred payment agreement shall promptly inform the court of any change of mailing address during the term of the agreement. If the defendant is unable to make payment within 90 days of sentencing, the court may assess a one-time fee not to exceed \$10 to cover the costs of management of the defendant's account until such account is paid in full. This one-time fee shall not apply to cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9. Installment or deferred payment agreements shall include terms for payment if the defendant participates in a program as provided in subsection B or C. The court, if such sum or sums are not paid in full by the date ordered, shall proceed in accordance with § 19.2-358.

B. When a person sentenced to the Department of Corrections or a local correctional facility owes any fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work release, home/electronic incarceration or nonconsecutive days program as set forth in § 53.1-60, 53.1-131, 53.1-131.1, or 53.1-131.2 to either make full payment or make payments in accordance with his installment or deferred payment agreement while participating in such program. If, after the person has an installment or deferred payment agreement, the person fails to pay as ordered, his participation in the program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director of the Department of Corrections and any sheriff or other administrative head of any local correctional facility shall withhold such ordered payments from any amounts due to such person. Distribution of the money collected shall be made in the following order of priority to:

1. Meet the obligation of any judicial or administrative order to provide support and such funds shall be disbursed according to the terms of such order;

2. Pay any restitution as ordered by the court;

3. Pay any fines or costs as ordered by the court;
4. Pay travel and other such expenses made necessary by his work release employment or participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and
5. Defray the offender's keep.

The balance shall be credited to the offender's account or sent to his family in an amount the offender so chooses.

The ~~State Board of Corrections~~ *Local and Regional Jails* shall promulgate regulations governing the receipt of wages paid to persons *sentenced to local correctional facilities* participating in such programs, the withholding of payments, and the disbursement of appropriate funds. *The Director of the Department of Corrections shall prescribe rules governing the receipt of wages paid to persons sentenced to state correctional facilities participating in such programs, the withholding of payments, and the disbursement of appropriate funds.*

C. The court shall establish a program and may provide an option to any person upon whom a fine and costs have been imposed to discharge all or part of the fine or costs by earning credits for the performance of community service work before or after imprisonment. The program shall specify the rate at which credits are earned and provide for the manner of applying earned credits against the fine or costs. The court assessing the fine or costs against a person shall inform such person of the availability of earning credit toward discharge of the fine or costs through the performance of community service work under this program and provide such person with written notice of terms and conditions of this program. The court shall have such other authority as is reasonably necessary for or incidental to carrying out this program.

D. When the court has authorized deferred payment or installment payments, the clerk shall give notice to the defendant that upon his failure to pay as ordered he may be fined or imprisoned pursuant to § 19.2-358 and his privilege to operate a motor vehicle will be suspended pursuant to § 46.2-395.

E. The failure of the defendant to enter into a deferred payment or installment payment agreement with the court or the failure of the defendant to make payments as ordered by the agreement shall allow the Tax Commissioner to act in accordance with § 19.2-349 to collect all fines, costs, forfeitures and penalties.

§ 53.1-1. Definitions.

As used in this title, unless the context requires ~~otherwise or it is otherwise provided~~ *a different meaning:*

"Board" or "State Board" means the State Board of ~~Corrections~~ *Local and Regional Jails*.

"Community correctional facility" means any group home, halfway house or other physically unrestricting facility used for the housing, treatment or care of adult offenders established or operated with funds appropriated to the Department of Corrections from the state treasury and maintained or operated by any political subdivision, combination of political subdivisions or privately operated agency within the Commonwealth.

"Community supervision" means probation, parole, postrelease supervision, programs authorized under the Comprehensive Community Corrections Act for local responsible offenders, and programs authorized under Article 7 (§ 53.1-128 et seq.) of Chapter 3 ~~of this title~~.

"Correctional officer" means a duly sworn employee of the Department of Corrections whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any state correctional facility.

"Department" means the Department of Corrections.

"Deputy sheriff" means a duly sworn officer appointed by a sheriff pursuant to § 15.2-1603 whose normal duties include, but are not limited to, maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility and may include those duties of a jail officer.

"Director" means the Director of the Department of Corrections.

"Jail officer" means a duly sworn employee of a local correctional facility, except for deputy sheriffs, whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility. This definition in no way limits any authority otherwise granted to a duly sworn deputy sheriff whose duties may include those of a jail officer.

"Local correctional facility" means any jail, jail farm or other place used for the detention or incarceration of adult offenders, excluding a lock-up, which is owned, maintained or operated by any political subdivision or combination of political subdivisions of the Commonwealth.

"Lock-up" means a facility whose primary use is to detain persons for a short period of time as determined by the Board.

"State correctional facility" means any correctional center or correctional field unit used for the incarceration of adult offenders established and operated by the Department of Corrections, or operated under contract pursuant to § 53.1-262. This term shall include "penitentiary" whenever used in this title or other titles of the Code.

Article 2.

State Board of ~~Corrections~~ *Local and Regional Jails.***§ 53.1-2. Appointment of members; qualifications; terms and vacancies.**

There shall be a State Board of ~~Corrections~~ *Local and Regional Jails*, which shall consist of nine residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. Members of the Board shall be appointed as follows: (i) one former sheriff or one former warden, superintendent, administrator, or operations manager of a state or local correctional facility; (ii) one individual employed by a public mental health services agency with training in or clinical, managerial, or other relevant experience working with individuals subject to the criminal justice system who have mental illness; (iii) one individual with experience overseeing a correctional facility's or mental health facility's compliance with applicable laws, rules, and regulations; (iv) one physician licensed in the Commonwealth; (v) one individual with experience in administering educational or vocational programs in state or local correctional facilities; (vi) one individual with experience in financial management or performing audit investigations; (vii) one citizen member who represents community interests; and (viii) two individuals with experience in conducting criminal, civil, or death investigations.

Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms of four years. A vacancy other than by expiration of term shall be filled by the Governor for the unexpired term.

No person shall be eligible to serve more than two full consecutive four-year terms.

§ 53.1-5. Powers and duties of Board.

The Board shall have the following powers and duties:

1. To develop and establish operational and fiscal standards governing the operation of local, regional, and community correctional facilities;

2. To advise the Governor and Director on matters relating to corrections;

3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community correctional facilities;

4. To ensure the development of programs to educate citizens and elicit public support for the activities of the Department;

5. To develop and implement policies and procedures for the review of the death of any inmate that the Board determines warrants review that occurs in any local, regional, or community correctional facility. Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of evidence necessary to conduct a thorough review of any such death;

6. To establish minimum standards for health care services, including medical, dental, pharmaceutical, and behavioral health services, in local, regional, and community 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 State Health Commissioner or their designees. Such minimum standards shall require that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report documenting the delivery of health care services, along with any improvements made to those services, to the Board. The Board shall make such reports available to the public on its website. The Board may determine that any local, regional, or community correctional facility that is accredited by the American Correctional Association or National Commission on Correctional Health Care meets such minimum standards solely on the basis of such facility's accreditation status; however, without exception, the requirement that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report to the Board shall be a mandatory minimum standard;

7. To establish and promulgate regulations regarding the provision of educational and vocational programs within the Department; and

8. To adopt and promulgate regulations and require the Director and Department to enforce regulations prohibiting the possession of obscene materials, as defined and described in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities report annually on or before December 1 to the General Assembly and the Governor on the results of the inspections and audits of local, regional, or community correctional facilities conducted pursuant to § 53.1-68 and the reviews of the deaths of inmates that occur in any local, regional, or community correctional facility conducted pursuant to § 53.1-69.1. The report shall include (i) a summary of the results of such inspections, audits, and reviews, including any trends identified by such inspections, audits, and reviews and the frequency of violations of each standard established for local, regional, or community correctional facilities, and (ii) any recommendations for changes to the standards established for local, regional, or community correctional facilities or the policies and procedures for conducting

reviews of the death of inmates to improve the operations, safety, and security of local, regional, or community correctional facilities.

§ 53.1-6. Board may administer oaths, conduct hearings, and issue subpoenas.

The Board, in the exercise and performance of its functions, duties, and powers under the provisions of this title, is authorized to hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers, and other documents, to administer oaths, and to take testimony thereunder.

When a review is ordered by the Board concerning any correctional facility subject to the Board's jurisdiction or concerning the conduct of persons connected therewith, the chairman of the Board, by order of the Board, may issue a summons directed to the sheriff of the county or city in which such institution is located commanding him to summon any person to be present on a certain day at such place within such county or city as may be designated by the Board to give evidence before the Board. The Board shall have like powers to issue a summons directed to the sheriff and to direct the sheriff to enforce such summons.

The chairman of the Board shall make the entry required of the clerk by § 17.1-612 concerning the amount any witness is to be paid as if the attendance of the witness was before a court. The sum to which the witness is entitled shall be paid out of the funds appropriated to the Board.

§ 53.1-6.1. Executive director; staff; compensation.

The Board may appoint and employ an executive director and such other persons as it deems necessary to assist it in carrying out its duties. The Board may determine the duties of such staff and fix their salaries or compensation within the amounts appropriate therefor. The duties of the executive director shall include management of (i) inspections and audits of local, regional, or community correctional facilities conducted pursuant to § 53.1-68 and (ii) reviews of the deaths of inmates that occur in any local, regional, or community correctional facility conducted pursuant to § 53.1-69.1.

§ 53.1-8. Department of Corrections.

There shall be in the executive department a Department of Corrections responsible to the Governor. The Department shall be under the supervision and management of the Director. ~~The Director shall carry out his management and supervisory powers in accordance with standards and goals of the Board.~~

§ 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 § 53.1-67.9. Such system shall include, as applicable, elementary, secondary, postsecondary, 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 § 53.1-67.9 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 at an institution of higher education 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,

675 contracts with the United States, other states, and agencies and governmental subdivisions of this
676 Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not
677 limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion
678 or construction of correctional facilities; ~~consistent with applicable standards and goals of the Board;~~

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

686 c. Notwithstanding the Director's discretion to make and enter into all contracts and agreements
687 necessary or incidental to the performance of the Department's duties and the execution of its powers
688 under this title, upon determining that it is necessary to transport Virginia prisoners through or to
689 another state and for other states to transport their prisoners within the Commonwealth, the Director may
690 execute reciprocal agreements with other states' corrections agencies governing such transports that shall
691 include provisions allowing each state to retain authority over its prisoners while in the other state.

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

697 7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are
698 adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race
699 or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the
700 types of and extent to which health-related problems are prevalent among such persons. Beginning July
701 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor
702 and the General Assembly at each regular session of the General Assembly thereafter. The report shall
703 be submitted as provided in the procedures of the Division of Legislative Automated Systems for the
704 processing of legislative documents and reports;

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

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

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

715 11. To designate employees of the Department with internal investigations authority to have the same
716 power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior
717 affecting the operations of the Department. Such employees shall be subject to any minimum training
718 standards established by the Department of Criminal Justice Services under § 9.1-102 for
719 law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision.
720 Nothing in this section shall be construed to grant the Department any authority over the operation and
721 security of local jails not specified in any other provision of law. The Department shall investigate
722 allegations of criminal behavior in accordance with a written agreement entered into with the
723 Department of State Police. The Department shall not investigate any action falling within the authority
724 vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title
725 2.2 unless specifically authorized by the Office of the State Inspector General;

726 12. To ~~prescribe and enforce and direct the Department to enforce regulatory policies promulgated~~
727 ~~by the Board rules~~ prohibiting the possession of obscene materials, as defined in Article 5 (§ 18.2-372 et
728 seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities; ~~and~~

729 13. To develop and administer a survey of each correctional officer, as defined in § 53.1-1, who
730 resigns, is terminated, or is transitioned to a position other than correctional officer for the purpose of
731 evaluating employment conditions and factors that contribute to or impede the retention of correctional
732 officers; ~~and~~

733 14. To promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to
734 effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as
735 defined in § 32.1-162.16, to be conducted or authorized by the Department. The regulations shall
736 require the human research committee to submit to the Governor, the General Assembly, and the

Director or his designee at least annually a report on the human research projects reviewed and approved by the committee and shall require the committee to report any significant deviations from the proposals as approved.

§ 53.1-18. Department to have custody of property; right to sue to protect property.

The ~~Board~~ Department shall have custody of both the real and personal property of state correctional facilities. The ~~Board~~ Department is authorized to institute and prosecute in the name of the Commonwealth any suit or proceeding to protect the rights of the Commonwealth in such property.

§ 53.1-19. Establishment of correctional institutions.

The Director, ~~subject to the approval of the Board and the Governor,~~ shall determine the necessity for and select the site of any new state correctional facility and any land to be taken or purchased by the Commonwealth for the purposes of any new or existing state correctional facility. The Director shall have charge of the construction of any new building at any state correctional facility, shall determine the design thereof, and for this purpose may employ architects and other experts or hold competitions for plans and designs. On or after January 1, 1996, at least ninety days in advance of the issuance of requests for proposals for construction, notice shall be given by the Director to the chairman of the board of supervisors or mayor of a county, city or town in which the facility is to be established or expanded for the purpose of the confinement of inmates. In addition, if the local governing body in the jurisdiction where the facility is to be located so requests, upon receipt of such request, the Department shall hold a public hearing in that jurisdiction. The Director may, if he finds it practical and economical, use persons sentenced to the Department as laborers in the construction of such structures.

If land or property is taken or purchased by the ~~Board~~ Department, title shall be taken in the name of the Commonwealth. The original names of all state correctional facilities shall be designated by the ~~Board~~ Department and approved by the Governor.

§ 53.1-24. Record of convictions and register to be kept.

The Director shall file and preserve a copy of the judgment furnished by the clerk of the court of conviction of each prisoner and keep a register describing the term of his confinement, for what offense, and when received into a state correctional facility. The Director may dispose of these records with the consent of the ~~Board~~ and The Library of Virginia in accordance with retention regulations for records maintained by the Department established under the Virginia Public Records Act (§ 42.1-76 et seq.).

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

A. The Governor, ~~and 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. Such search shall be performed in a manner reasonable under the circumstances and may be a condition precedent to entering a correctional facility.

§ 53.1-31. Sale or lease of gas, oil, or minerals.

The Director, ~~with the approval of the Board,~~ is empowered to make and execute contracts, easements and leases in the name of the Commonwealth for the removal or mining of gas, oil or any valuable minerals that may be found in any real estate, title of which is vested in the ~~Board~~ Department, whenever it appears to the ~~Board~~ Department that it will be in the best interest of the Commonwealth to make such disposition of such gas, oil or minerals. Before a contract, easement or lease is made, the same shall be approved by the Governor, and any contract, easement or lease shall be approved as to form by the Attorney General.

Bids therefor shall be received after notice by publication once a week for four successive weeks in at least two newspapers of general circulation. The Director shall have the right to reject any or all bids and to readvertise for bids. The accepted bidder shall give bond with good and sufficient surety to the satisfaction of the Director and in such amount as he may fix for the faithful performance of all the conditions and covenants of such contract, easement or lease.

Each such contract, easement or lease may be for a period not exceeding five years, may include the right to renew the same for an additional period not exceeding five years each and shall specify the rent royalties and other terms deemed expedient and proper. Such contracts, easements and leases may, in

798 addition to any other rights, authorize the grantees and lessees to prospect for and take from the real
799 estate oil, gas and such other minerals as are therein specified. No such contract, easement or lease shall
800 in any way affect or interfere with the orderly operation of any state correctional facility. All rents or
801 royalties collected from such contracts, easements or leases shall be paid into the state treasury to the
802 credit of the general fund.

803 **§ 53.1-32. Treatment and control of prisoners; recreation; religious services.**

804 A. It shall be the general purpose of the state correctional facilities to provide proper employment,
805 training and education in accordance with this title, medical and mental health care and treatment,
806 discipline and control of prisoners committed or transferred thereto. The health service program
807 established to provide medical services to prisoners shall provide for appropriate means by which
808 prisoners receiving nonemergency medical services may pay fees based upon a portion of the cost of
809 such services. In no event shall any prisoner be denied medically necessary service due to his inability
810 to pay. ~~The Board shall promulgate regulations governing such a program.~~

811 B. The Department of Corrections shall establish and maintain a treatment program for prisoners
812 convicted pursuant to Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 and committed to its
813 custody. The program shall include a clinical assessment of all such prisoners upon receipt into the
814 custody of the Department of Corrections and the development of appropriate treatment plans, if
815 indicated. A licensed psychiatrist or licensed clinical psychologist who is experienced in the diagnosis,
816 treatment, and risk assessment of sex offenders shall oversee the program and the program shall be
817 administered by a licensed psychiatrist, licensed clinical psychologist, or a licensed mental health
818 professional who is a certified sex offender treatment provider as defined in § 54.1-3600.

819 C. The Director shall provide a program of recreation for prisoners. The Director may establish, with
820 consultation from the Department of Behavioral Health and Developmental Services, a comprehensive
821 substance abuse treatment program which may include utilization of acupuncture and other treatment
822 modalities, and may make such program available to any prisoner requiring the services provided by the
823 program.

824 D. The Director or his designee who shall be a state employee is authorized to make arrangements
825 for religious services for prisoners at times as he may deem appropriate. When such arrangements are
826 made pursuant to a contract or memorandum of understanding, the final authority for such arrangements
827 shall reside with the Director or his designee.

828 **§ 53.1-32.01. Payment for bodily injury.**

829 ~~The Board~~ Director is authorized to establish administrative procedures for recovering from an
830 inmate the cost for medical treatment of a bodily injury that is inflicted intentionally on any person by
831 the inmate. Such administrative procedures shall ensure that the inmate is afforded due process.

832 **§ 53.1-32.1. Classification system; program assignments; mandatory participation.**

833 A. The Director shall maintain a system of classification which (i) evaluates all prisoners according
834 to background, aptitude, education, and risk and (ii) based on an assessment of needs, determines
835 appropriate program assignments including career and technical education, work activities and
836 employment, academic activities which at a minimum meet the requirements of § 66-13.1, counseling,
837 alcohol and substance abuse treatment, and such related activities as may be necessary to assist prisoners
838 in the successful transition to free society and gainful employment.

839 B. The Director shall, subject to the availability of resources and sufficient program assignments,
840 place prisoners in appropriate full-time program assignments or a combination thereof to satisfy the
841 objectives of a treatment plan based on an assessment and evaluation of each prisoner's needs.
842 Compliance with specified program requirements and attainment of specific treatment goals shall be
843 required as a condition of placement and continuation in such program assignments. The Director may
844 suspend programs in the event of an institutional emergency.

845 C. For the purposes of implementing the requirements of subsection B, prisoners shall be required to
846 participate in such programs according to the following schedule:

- 847 1. From July 1, 1994, through June 30, 1995, an average of 24 hours per week.
- 848 2. From July 1, 1995, through June 30, 1996, an average of 28 hours per week.
- 849 3. From July 1, 1996, through June 30, 1997, an average of 30 hours per week.
- 850 4. From July 1, 1997, through June 30, 1998, an average of 36 hours per week.
- 851 5. From July 1, 1998, and thereafter, an average of 40 hours per week.

852 D. Notwithstanding any other provision of law, prisoners refusing to accept a program assignment
853 shall not be eligible for good conduct allowances or earned sentence credits authorized pursuant to
854 Chapter 6 (§ 53.1-186 et seq.) of Title 53.1. Such refusal shall also constitute a violation of the rules
855 authorized pursuant to § 53.1-25 and the Director shall prescribe appropriate disciplinary action.

856 E. The Director shall maintain a master program listing, by facility and program location, of all
857 available permanent and temporary positions. The Director may, consistent with § 53.1-43 and subject to
858 the approval of the Board, establish a system of pay incentives for such assignments based upon
859 difficulty and level of effort required.

F. Inmates employed pursuant to Article 2 (§ 53.1-32 et seq.) of Chapter 2 of this title shall not be deemed employees of the Commonwealth of Virginia or its agencies and shall be ineligible for benefits under Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, Chapter 6 (§ 60.2-600 et seq.) of Title 60.2, Chapter 5 (§ 65.2-500 et seq.) of Title 65.2 or any other provisions of the Code pertaining to the rights of state employees.

§ 53.1-37. Furloughs generally; travel expenses; penalties for violations.

A. The Director may extend the limits of confinement of any prisoner in any state correctional facility to permit him a furlough under the provisions of this section for the purpose of visiting his home or family. Such furlough shall be for a period to be prescribed by the Director or his designee, in his discretion, not to exceed three days in addition to authorized travel time. Except for furloughs permitted under subsection C, the time during which a prisoner is on furlough shall not be counted as time served against any sentence, and during any furlough, no earned sentence credits as defined in § 53.1-116, good conduct allowance, or any other reduction of sentence shall accrue. The ~~Board~~ Director shall promulgate rules and regulations governing extension of limits of confinement hereunder.

B. The Director may, when feasible, require the prisoner or his relatives to bear the travel expense required for such visit or a prescribed portion thereof. Such travel expense shall include all amounts necessarily expended for travel, food and lodging of such prisoner and any accompanying personnel of the Department during such furlough, and a per diem amount set by the Director to reimburse the Department for furnishing custodial personnel.

C. The Director may permit a prisoner a furlough when the prisoner has been approved for release on parole by the Parole Board and 30 days or less remain to be served by the prisoner prior to his date of release on parole. Such a furlough shall not exceed 30 days.

D. Any prisoner who willfully fails to remain within the limits of confinement set by the Director hereunder, or who willfully fails to return within the time prescribed to the place designated by the Director in granting such extension, shall be guilty of an escape and shall be subject to penalty as though he left the state correctional facility itself.

E. Any prisoner who without authority or just cause fails to remain within the limits of confinement set by the Director hereunder, or who without authority or just cause fails to return within the time prescribed to the place designated by the Director in granting such extension, shall be guilty of a Class 2 misdemeanor.

F. Fifteen days prior to a prisoner's participation in the furlough program, the Director shall give the chief of police, sheriff or local chief law-enforcement official of the locality in which the prisoner will stay, notice of the prisoner's participation. Such notice shall include the name, address and criminal history, and any additional information the chief of police or such officer may request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

§ 53.1-39. Certain punishment of prisoners prohibited.

Notwithstanding any provision of this Code or of any other law, rule, or regulation to the contrary, it shall be unlawful for the *Director, the Board*, or any other correctional authority having the care, custody, or control of any prisoner in this Commonwealth to make or enforce any rule or regulation providing for the whipping, flogging, or administration of any similar corporal punishment of any prisoner, or to give any specific order for or to cause to be administered or personally to administer or inflict any such corporal punishment.

§ 53.1-42. Allowance for work and disposition thereof.

Every prisoner committed and transferred to the Department and thereafter confined for the sentence for which he was committed in a state or local correctional facility shall be allowed an amount to be established by the ~~Board~~ Director for each day of labor satisfactory to the superintendent or sheriff in whose charge he is. The allowance so made shall accumulate and be paid over to the prisoner upon discharge, except that an amount thereof to be determined by the ~~Board~~ Director may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the ~~Board~~ Director.

For the purposes of this section only, the phrase "transferred to the Department" means (i) the actual physical receipt by the Department of a prisoner in a state correctional facility or (ii) the complete processing by the Department of a prisoner for the purposes of classifying the person as a state prisoner whether or not the person is physically received into a state correctional facility.

§ 53.1-43. Pay incentives for prisoners.

The Director may, ~~subject to the approval of the Board~~, establish a system of pay incentives for prisoners confined in any state correctional facility. Such system may provide for the payment of a bonus to any prisoner who is assigned to employment in any position of responsibility or who performs his job in an exemplary manner.

§ 53.1-60. Extending limits of confinement of state prisoners for work and educational programs; disposition of wages; support of certain dependents; penalties for violations.

921 A. The Director is authorized to establish work release programs, ~~subject to such rules and~~
922 ~~regulations as the Board may prescribe~~, whereby (i) a prisoner who is proficient in any trade or
923 occupation and whom the Director is satisfied is trustworthy, may be approved for employment by
924 private individuals, corporations or state agencies at places of business, or (ii) a prisoner whom the
925 Director is satisfied is trustworthy and capable of receiving substantial benefit from educational and
926 other related community activity programs that are not available within a state correctional facility may
927 attend such programs outside of the correctional facility, without a correctional officer during any hour
928 of the day or night. Such prisoner shall travel directly to, from or be in authorized attendance or
929 employment at such place of business, educational or related community activity program.

930 B. The Director is authorized to arrange for the temporary care of prisoners who are deemed capable
931 of participation in the programs established herein in approved local or community correctional facilities.
932 The hours of employment or attendance shall be arranged by the Director. In the event of a legally
933 sanctioned strike at the prisoner's place of employment, the prisoner in the work release program shall
934 be withdrawn from the employment for the duration of the strike.

935 C. The compensation for such employment shall be arranged by the Director and shall be the same
936 as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The
937 Director shall, in accordance with regulations promulgated by the ~~Board~~ Director, deduct from such
938 wages, in the following order of priority, an amount to:

939 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall
940 be disbursed according to the terms of such order;

941 2. Pay any fines, restitution or costs as ordered by the court;

942 3. Pay travel and other such expenses made necessary by his work release employment or
943 participation in an educational or rehabilitative program, including the sums specified in § 53.1-150; and

944 4. Defray the prisoner's keep.

945 The balance shall be credited to the prisoner's account or sent to his family in an amount the
946 prisoner so chooses.

947 D. Any prisoner who has been placed in any of the programs authorized herein shall, while outside
948 the state correctional facility or approved local or community correctional facility to which he is
949 assigned, be deemed to be in custody whether or not he is under the supervision of a correctional
950 officer. If the prisoner, without proper authority or without just cause, leaves the area in which he has
951 been directed to work or to attend educational or community activity programs, or the vehicle or route
952 involved in his traveling to or from such place or program, he may be found guilty of escape as
953 provided for in § 18.2-477 as though he had left the state, local or community correctional facility itself,
954 or, if there are mitigating circumstances or the culpability of the prisoner is minimal, he may be found
955 guilty of a Class 2 misdemeanor.

956 E. The Director and any sheriff or other administrative head of any local correctional facility are
957 authorized to enter into agreements whereby persons committed to the Department, whether such persons
958 are housed in a state or local correctional facility, and who meet the Department's standards for such
959 release may participate in local work release programs or in educational or other rehabilitative programs
960 operating pursuant to § 53.1-131. Any person so placed shall be governed by the rules and regulations
961 applicable to local work release programs.

962 F. The provisions of § 53.1-131 shall apply to any person convicted of a felony but confined in jail
963 pursuant to § 53.1-20 and participating in work, rehabilitation, or education programs.

964 **§ 53.1-63. Department to establish facilities for persons committed under Article 2 (§ 19.2-311 et**
965 **seq.) of Chapter 18 of Title 19.2.**

966 A. The Department shall establish, staff and maintain, at any state correctional facility designated by
967 the ~~Board~~ Director, programs and housing for the rehabilitation, training and confinement of persons
968 committed to the Department under the provisions of Article 2 (§ 19.2-311 et seq.) of Chapter 18 of
969 Title 19.2. Persons admitted to these facilities shall be determined by the Department to have the
970 potential for rehabilitation through confinement and treatment therein.

971 B. Elements of the program shall include but not be limited to (i) an initial period of military style
972 drill, (ii) cognitive behavioral restructuring designed to teach responsibility and accountability through
973 anger management, life skills development, substance abuse education, parenting skills development and
974 peer tutoring, (iii) developmental counseling as needed, (iv) academic education, career and technical
975 education, and apprenticeships, and (v) transitional release, reentry services, aftercare and intensive
976 parole supervision.

977 **§ 53.1-63.1. Department to establish facilities for juveniles sentenced as adults.**

978 The Department shall establish, staff and maintain, at any state correctional facilities designated by
979 the ~~Board~~ Director, programs and housing for the rehabilitation, training, and confinement of juveniles
980 sentenced by the circuit courts as adults and committed to the Department pursuant to § 16.1-272. The
981 Department shall establish, staff, and maintain education for such juveniles in accordance with standards
982 established by the Department of Juvenile Justice.

§ 53.1-67.4. Authority of Director; purchase of services authorized; location and notification.

A. Facilities established under this article may, in the discretion of the Director, be purchased, constructed or leased. The Director is further authorized to employ necessary personnel for these facilities. The Director, pursuant to rules and regulations of the Board, may purchase such services as are deemed necessary in furtherance of this article. Such services may be provided by qualified public agencies or private agencies.

B. At least 90 days prior to (i) the issuance of a request for proposal for construction, (ii) the execution of a contract for the purchase of improved or unimproved land, or (iii) the execution or renewal of a lease agreement, notice shall be given by the Director to the chairman of the board of supervisors or mayor of the county, city, or town in which the facility is to be located. Such notice shall also be given to each adjacent land owner. In addition, if the local governing body in the jurisdiction where the facility is to be located so requests, the Department shall hold a public hearing in that jurisdiction.

§ 53.1-67.5. Director to prescribe standards.

The Board Director shall prescribe standards for the development, implementation, operation, and evaluation of programs, services and facilities authorized by this article. The Board Director shall also prescribe guidelines for the transfer of offenders from a state or local correctional facility who the Director has determined should be placed in programs or facilities authorized under this article.

§ 53.1-69.2. Administrative appeal of Board determinations.

If the Board determines that a local correctional facility is not in compliance with the minimum standards for construction, equipment, administration, or operation of local correctional facilities, the Board shall provide written notice of such determination to the local correctional facility. The local correctional facility may appeal the Board's determination. Any local correctional facility that appeals such a determination by the Board shall provide written notice of its request for an appeal to the Board within 30 days of the date upon which the facility received written notice of the Board's determination of noncompliance. Such appeal shall be conducted in accordance with Article 3 (§ 2.2-4018 et seq.) of the Administrative Process Act (§ 2.2-4000 et seq.).

§ 53.1-95.20. Duty to prescribe rules and regulations.

It shall be the duty of an authority created pursuant to this article to prescribe rules and regulations, not inconsistent with standards of the State Board of ~~Corrections~~ Local and Regional Jails, for the operation of the project or projects constructed under the provisions of this article.

§ 53.1-106. Members of jail or jail farm board or regional jail authority; powers; payment of pro rata costs.

A. Each regional jail or jail farm shall be supervised and managed by a board or authority to consist of at least the sheriff from each participating political subdivision, and one representative from each political subdivision participating therein who shall be appointed by the local governing body thereof. Any member of the local governing body of each participating political subdivision shall be eligible for appointment to the jail or jail farm board or regional jail authority. However, no one shall serve as a member of the board or authority who serves as an administrator or superintendent of a correctional facility supervised and managed by the board.

Alternate members may be appointed to the board. Such alternate members shall be selected in the same manner as regular members, except that a sheriff may appoint his own alternate. The term of each alternate shall be determined by the sheriff or the political subdivision, whichever appointed the alternate. If a regular member is not present at a meeting of the board, the alternate for that member shall have all the voting and other rights of a regular member and shall be counted for purposes of determining a quorum at any meeting.

B. The board shall have the power to:

1. Establish rules and regulations governing the operation of the jail or jail farm not inconsistent with standards of the State Board of ~~Corrections~~ Local and Regional Jails;

2. Purchase land for the jail or jail farm for joint ownership by the participating political subdivisions with the approval of the local governing bodies;

3. Provide for all necessary stock, equipment and structures for the jail or jail farm within the budget approved therefor by the participating political subdivisions; and

4. Appoint a superintendent of such jail or jail farm and necessary jail officers therefor who shall serve at the pleasure of the board.

The political subdivisions establishing a regional jail or jail farm shall pay their pro rata costs for land, stock, equipment and structures.

§ 53.1-131. Provision for release of prisoner from confinement for employment, educational or other rehabilitative programs; escape; penalty; disposition of earnings.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense or charged with an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and (i)

1044 sentenced to confinement in jail or (ii) being held in jail pending completion of a presentence report
1045 pursuant to § 19.2-299, and if it appears to the court that such offender is a suitable candidate for work
1046 release, assign the offender to a work release program under the supervision of a probation officer, the
1047 sheriff or the administrator of a local or regional jail or a program designated by the court. The court
1048 further may authorize the offender to participate in educational or other rehabilitative programs designed
1049 to supplement his work release employment. The court shall be notified in writing by the director or
1050 administrator of the program to which the offender is assigned of the offender's place of employment
1051 and the location of any educational or rehabilitative program in which the offender participates.

1052 Any person who has been sentenced to confinement in jail or who has been convicted of a felony
1053 but is confined in jail pursuant to § 53.1-20, in the discretion of the sheriff may be assigned by the
1054 sheriff to a work release program under the supervision of the sheriff or the administrator of a local or
1055 regional jail. The sheriff may further authorize the offender to participate in educational or other
1056 rehabilitative programs as defined in this section designed to supplement his work release employment.
1057 The court that sentenced the offender shall be notified in writing by the sheriff or the administrator of a
1058 local or regional jail of any such assignment and of the offender's place of employment or other
1059 rehabilitative program. The court, in its discretion, may thereafter revoke the authority for such an
1060 offender to participate in a work release program.

1061 The sheriff and the Director may enter into agreements whereby persons who are committed to the
1062 Department, whether such persons are housed in a state or local correctional facility, and who have met
1063 all standards for such release, may participate in a local work release program or in educational or other
1064 rehabilitative programs as defined in this section. The administrator of a regional jail and the Director
1065 may also enter into such agreements where such agreements are approved in advance by a majority of
1066 the sheriffs on the regional jail board. All persons accepted in accordance with this section shall be
1067 governed by all regulations applying to local work release, notwithstanding the provisions of any other
1068 section of the Code. Local jails shall qualify for compensation for cost of incarceration of such persons
1069 pursuant to § 53.1-20.1, less any payment for room and board collected from the inmate.

1070 If an offender who has been assigned to such a program by the court is in violation of the rules of
1071 the jail pursuant to § 53.1-117, the sheriff or jail administrator may remove the offender from the work
1072 release program, either temporarily or for the duration of the offender's confinement. Upon removing an
1073 offender from the work release program, the sheriff or jail administrator shall notify in writing the court
1074 that sentenced the offender and indicate the specific violations that led to the decision.

1075 Any offender assigned to such a program by the court or sheriff who, without proper authority or
1076 just cause, leaves the area to which he has been assigned to work or attend educational or other
1077 rehabilitative programs, or leaves the vehicle or route of travel involved in his going to or returning
1078 from such place, is guilty of a Class 1 misdemeanor. In the event such offender leaves the
1079 Commonwealth, the offender may be found guilty of an escape as provided in § 18.2-477. An offender
1080 who is found guilty of a Class 1 misdemeanor in accordance with this section shall be ineligible for
1081 further participation in a work release program during his current term of confinement.

1082 The Board shall prescribe regulations to govern the work release, educational and other rehabilitative
1083 programs authorized by this section.

1084 Any wages earned pursuant to this section by an offender may, upon order of the court, be paid to
1085 the director or administrator of the program after standard payroll deductions required by law.
1086 Distribution of such wages shall be made for the following purposes:

- 1087 1. To pay an amount to defray the cost of his keep;
- 1088 2. To pay travel and other such expenses made necessary by his work release employment or
1089 participation in an educational or rehabilitative program;
- 1090 3. To provide support and maintenance for his dependents or to make payments to the local
1091 department of social services or the Commissioner of Social Services, as appropriate, on behalf of
1092 dependents who are receiving public assistance or social services as defined in § 63.2-100; or
- 1093 4. To pay any fines, restitution or costs as ordered by the court.

1094 Any balance at the end of his sentence shall be paid to the offender upon his release.

1095 B. For the purposes of this section:

1096 "Educational program" means a program of learning recognized by the State Council of Higher
1097 Education, the State Board of Education, the Director, or the State Board of Corrections Local and
1098 Regional Jails.

1099 "Rehabilitative program" includes an alcohol and drug treatment program, mental health program,
1100 family counseling, community service or other community program approved by the court having
1101 jurisdiction over the offender.

1102 "Sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was
1103 convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail
1104 administrator to assign offenders to work release programs under this section.

1105 "Work release" means full-time employment or participation in suitable career and technical

education programs.

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or failure to pay child support pursuant to a court order may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. However, any offender who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic incarceration program: (i) first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii) mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under Article 4 (§ 18.2-51 et seq.); (v) robbery under § 18.2-58.1; or (vi) any criminal sexual assault punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's participation in work release employment or educational or other rehabilitative programs as defined in § 53.1-131 or, as appropriate, in a court-ordered intensive case monitoring program for child support. The court shall be notified in writing by the director or administrator of the program to which the offender is assigned of the offender's place of home/electronic incarceration, place of employment, and the location of any educational or rehabilitative program in which the offender participates.

B. In any city or county in which a home/electronic incarceration program established pursuant to this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local or regional jail, may assign the accused to such a program pending trial if it appears to the court that the accused is a suitable candidate for home/electronic incarceration.

C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender violates any provision of the terms of the home/electronic incarceration agreement, the offender may have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or Schedule II controlled substance. The court shall retain authority to remove the offender from such home/electronic incarceration program. The court which sentenced the offender shall be notified in writing by the sheriff or the administrator of a local or regional jail of the offender's place of home/electronic incarceration and place of employment or other rehabilitative program.

D. The Board may prescribe regulations to govern home/electronic incarceration programs, *and the Director may prescribe rules to govern home/electronic incarceration programs operated under the supervision of a Department of Corrections probation and parole district office established pursuant to § 53.1-141.*

E. Any offender or accused assigned to such a program by the court or sheriff who, without proper authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been assigned to work or attend educational or other rehabilitative programs, including a court-ordered intensive case monitoring program for child support, or the vehicle or route of travel involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender or accused who is found guilty of a violation of this section shall be ineligible for further participation in a home/electronic incarceration program during his current term of confinement.

F. The director or administrator of a home/electronic incarceration program who also operates a residential program may remove an offender from a home/electronic incarceration program and place him in such residential program if the offender commits a noncriminal program violation. The court shall be notified of the violation and of the placement of the offender in the residential program.

G. The director or administrator of a home/electronic incarceration program shall charge the offender or accused a fee for participating in the program to pay for the cost of home/electronic incarceration equipment. The offender or accused shall be required to pay the program for any damage to the equipment which is in his possession or for failure to return the equipment to the program.

H. Any wages earned by an offender or accused assigned to a home/electronic incarceration program

1167 and participating in work release shall be paid to the director or administrator after standard payroll
1168 deductions required by law. Distribution of the money collected shall be made in the following order of
1169 priority to:

1170 1. Meet the obligation of any judicial or administrative order to provide support and such funds shall
1171 be disbursed according to the terms of such order;

1172 2. Pay any fines, restitution or costs as ordered by the court;

1173 3. Pay travel and other such expenses made necessary by his work release employment or
1174 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

1175 4. Defray the offender's keep.

1176 The balance shall be credited to the offender's account or sent to his family in an amount the
1177 offender so chooses.

1178 The ~~State Board of Corrections~~ *Local and Regional Jails* shall promulgate regulations governing the
1179 receipt of wages paid to persons participating in such programs, *except programs operated under the*
1180 *supervision of a Department of Corrections probation and parole district office established pursuant to*
1181 *§ 53.1-141*, the withholding of payments, and the disbursement of appropriate funds. *The Director shall*
1182 *prescribe rules governing the receipt of wages paid to persons participating in such programs operated*
1183 *under the supervision of a Department of Corrections probation and parole district office established*
1184 *pursuant to § 53.1-141, the withholding of payments, and the disbursement of appropriate funds.*

1185 I. For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person
1186 charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate
1187 a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration
1188 programs pursuant to this section.

1189 **§ 53.1-133.01. Medical treatment for prisoners.**

1190 Any sheriff or superintendent may establish a medical treatment program for prisoners in which
1191 prisoners participate and pay towards a portion of the costs thereof. The ~~State Board of Corrections~~
1192 *Local and Regional Jails* shall develop a model plan and promulgate regulations for such program, and
1193 shall provide assistance, if requested, to the sheriff or superintendent in the implementation of a
1194 program.

1195 **§ 53.1-133.03. Exchange of medical and mental health information and records.**

1196 A. Whenever a person is committed to a local or regional correctional facility, the following shall be
1197 entitled to obtain medical and mental health information and records concerning such person from a
1198 health care provider, even when such person does not provide consent or consent is not readily
1199 obtainable:

1200 1. The person in charge of the facility, or his designee, when such information and records are
1201 necessary (i) for the provision of health care to the person committed, (ii) to protect the health and
1202 safety of the person committed or other residents or staff of the facility, or (iii) to maintain the security
1203 and safety of the facility. Such information and records of any person committed to jail and transferred
1204 to another correctional facility may be exchanged among administrative personnel of the correctional
1205 facilities involved and of the administrative personnel within the holding facility when there is
1206 reasonable cause to believe that such information is necessary to maintain the security and safety of the
1207 holding facility, its employees, or prisoners. The information exchanged shall continue to be confidential
1208 and disclosure shall be limited to that necessary to ensure the security and safety of the facility.

1209 2. Members of the Parole Board or its designees, as specified in § 53.1-138, in order to conduct the
1210 investigation required under § 53.1-155.

1211 3. Probation and parole officers and local probation officers for use in parole and probation planning,
1212 release, and supervision.

1213 4. Officials of the facilities involved and officials within the holding facility for the purpose of
1214 formulating recommendations for treatment and rehabilitative programs; classification, security and work
1215 assignments; and determining the necessity for medical, dental and mental health care, treatment and
1216 other such programs.

1217 5. Medical and mental health hospitals and facilities, both public and private, including community
1218 services boards and health departments, for use in treatment while committed to jail or a correctional
1219 facility while under supervision of a probation or parole officer.

1220 B. Substance abuse records subject to federal regulations, Confidentiality of Alcohol and Drug Abuse
1221 Patient Records, 42 C.F.R. § 2.11 et seq., shall not be subject to the provisions of this section. The
1222 disclosure of results of a test for human immunodeficiency virus shall not be permitted except as
1223 provided in §§ 32.1-36.1 and 32.1-116.3.

1224 C. The release of medical and mental health information and records to any other agency or
1225 individual shall be subject to all regulations promulgated by the ~~State Board of Corrections~~ *Local and*
1226 *Regional Jails* that govern confidentiality of such records. Medical and mental health information
1227 concerning a prisoner that has been exchanged pursuant to this section may be used only as provided
1228 herein and shall otherwise remain confidential and protected from disclosure.

D. Nothing contained in this section shall prohibit the release of records to the Department of Health Professions or health regulatory boards consistent with Subtitle III (§ 54.1-2400 et seq.) of Title 54.1.

§ 53.1-145. Powers and duties of probation and parole officers.

In addition to other powers and duties prescribed by this article, each probation and parole officer shall:

1. Investigate and report on any case pending in any court or before any judge in his jurisdiction referred to him by the court or judge;

2. Supervise and assist all persons within his territory placed on probation, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and furnish every such person with a written statement of the conditions of his probation and instruct him therein; if any such person has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2, the conditions of probation shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services, and that he follow all of the terms of his treatment plan;

3. Supervise and assist all persons within his territory released on parole or postrelease supervision, secure, as appropriate and when available resources permit, placement of such persons in a substance abuse treatment program which may include utilization of acupuncture and other treatment modalities, and, in his discretion, assist any person within his territory who has completed his parole, postrelease supervision, or has been mandatorily released from any correctional facility in the Commonwealth and requests assistance in finding a place to live, finding employment, or in otherwise becoming adjusted to the community;

4. Arrest and recommit to the place of confinement from which he was released, or in which he would have been confined but for the suspension of his sentence or of its imposition, for violation of the terms of probation, post-release supervision pursuant to § 19.2-295.2 or parole, any probationer, person subject to post-release supervision or parolee under his supervision, or as directed by the Chairman, Board member or the court, pending a hearing by the Board or the court, as the case may be;

5. Keep such records, make such reports, and perform other duties as may be required of him by the Director or by regulations prescribed by the Board of Corrections, and the court or judge by whom he was authorized;

6. Order and conduct, in his discretion, drug and alcohol screening tests of any probationer, person subject to post-release supervision pursuant to § 19.2-295.2 or parolee under his supervision who the officer has reason to believe is engaged in the illegal use of controlled substances or marijuana, or the abuse of alcohol. The cost of the test may be charged to the person under supervision. Regulations governing the officer's exercise of this authority shall be promulgated by the Board Director;

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the Board Director and upon the certification of appropriate training and specific authorization by a judge of a circuit court;

8. Provide services in accordance with any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services pursuant to § 37.2-912;

9. Pursuant to any contract entered into between the Department of Corrections and the Department of Behavioral Health and Developmental Services, probation and parole officers shall have the power to provide intensive supervision services to persons placed on conditional release, regardless of whether the person has any time remaining to serve on any criminal sentence, pursuant to Chapter 9 (§ 37.2-900 et seq.);

10. Determine by reviewing the Local Inmate Data System upon intake and again prior to release whether a blood, saliva, or tissue sample has been taken for DNA analysis for each person placed on probation or parole required to submit a sample pursuant to Article 1.1 (§ 19.2-310.2 et seq.) of Chapter 18 of Title 19.2 and, if no sample has been taken, require a person placed on probation or parole to submit a sample for DNA analysis;

11. For every offender accepted pursuant to the Interstate Compact for the Supervision of Adult Offenders (§ 53.1-176.1 et seq.) who has been convicted of an offense that, if committed in Virginia, would be considered a felony, take a sample or verify that a sample has been taken and accepted into the data bank for DNA analysis in the Commonwealth;

12. Monitor the collection and payment of restitution to the victims of crime for offenders placed on supervised probation;

13. Prior to the release from supervision of any offender on probation as of July 1, 2019, review the criminal history record of the offender at least 60 days prior to release from supervision, or immediately if the offender is scheduled to be released from supervision within less than 60 days, to determine whether all offenses for which the offender is being supervised appear on such record and, if any such

offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390 and (ii) provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record; and

14. Upon intake of any offender on or after July 1, 2019, (i) take and provide fingerprints and a photograph of the offender to the Central Criminal Records Exchange to be classified and filed as part of the criminal history record information pursuant to subsection D of § 19.2-390, (ii) review the criminal history record of the offender to determine whether all offenses for which the offender is being supervised appear on such record, and (iii) if any such offense that is required to be reported to the Central Criminal Records Exchange pursuant to § 19.2-390 does not appear, provide written or electronic notification to the Central Criminal Records Exchange within the Department of State Police that such offense does not appear on the offender's criminal history record.

Nothing in this article shall require probation and parole officers to investigate or supervise cases before general district or juvenile and domestic relations district courts.

§ 53.1-150.1. Contribution by persons on parole.

Any person who is granted parole and who is required to receive substance abuse treatment as a condition of parole shall contribute towards the cost of such treatment based upon his ability to pay, as established pursuant to regulations promulgated by the ~~Board of Corrections~~ Director. The regulations shall provide that (i) any fees collected for such treatment shall be paid directly to the service provider and (ii) any person may be exempt from the payment of such fees on the grounds of unreasonable hardship.

§ 53.1-154.1. Authority of Director to recommend parole review; release upon review.

The Director is authorized, ~~in accordance with rules and regulations adopted by the Board of Corrections,~~ to determine those prisoners who may be suitable parole risks and whose interests and those of society will be served by their early parole release and to recommend such prisoners to the Parole Board for early parole consideration. In making such recommendation, the Director shall take into account the prisoner's criminal history record, mental and physical condition, employability, institutional adjustment and such other factors as may be appropriate, including the risk of violence to others. The case of any such prisoner so recommended may be reviewed by the Parole Board prior to such prisoner's date of eligibility for parole. Upon appropriate review the Parole Board may release on parole prior to the date of eligibility for parole any prisoner so recommended by the Director. However, no prisoner shall be released until he has served at least one-fourth of the term of imprisonment imposed, or until he has served twelve years of the term of imprisonment imposed if one-fourth of the term of imprisonment imposed is more than twelve years, except as such time is reduced by any other provision of law.

This section shall have no application to persons not eligible for parole pursuant to subsections B, B1 and E of § 53.1-151.

§ 53.1-164. Procedure for return of parolee or felon serving a period of postrelease supervision.

When any parolee or felon serving a period of postrelease supervision is returned to any facility in accordance with the provisions of § 53.1-161, he shall be held in accordance with rules of the ~~Board of Corrections~~ Director and subject to further action of the Parole Board. The officer in charge of the facility shall see that the Parole Board is notified promptly of each such parolee's or felon's return.

§ 53.1-178. Director to establish standards.

The ~~Board~~ Director shall establish minimum standards for the operation of the facilities authorized by § 53.1-177. The Director shall maintain a list of approved halfway houses.

§ 53.1-179. Purchase of services authorized.

The Director, ~~pursuant to rules and regulations of the Board,~~ may purchase temporary room and board and training, counseling and rehabilitation services for probationers and parolees whom the Director deems to be in need of and eligible for such benefits and services. Implementation of this provision shall conform with the requirements of all locally-adopted zoning regulations.

§ 53.1-189. Forfeiture and restoration of good conduct allowance and earned sentence credits.

A. Except for credits allowed under § 53.1-191, all or any part of a person's accrued good conduct allowance and earned sentence credits earned after admission to a state correctional facility on any sentence or combination of sentences being served may be forfeited in accordance with rules and regulations of the ~~Board~~ Director for violation of any written prison rules or regulations.

B. If a prisoner is convicted of escape or attempted escape from any correctional facility, such person shall, upon being returned to custody, forfeit all accrued good conduct allowance and all earned sentence credits on any sentence or combination of sentences being served, except for credits allowed under § 53.1-191.

C. No good conduct allowance or earned sentence credit which has been forfeited shall be restored

except by the Director, whose authority shall not be delegated.

§ 53.1-191. Credits allowed in cases of injuries to or extraordinary services performed by prisoners; nonforfeiture of credits hereunder.

The ~~Board~~ Director, with the consent of the Governor, may allow to any prisoner confined in a state correctional facility a credit toward his term of confinement if he (i) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner; (ii) gives a blood donation to another prisoner; (iii) voluntarily or at the instance of a prison official renders other extraordinary services; or (iv) suffers bodily injury while in the prison system. The ~~Board~~ Director shall determine the amount of any such credit for each such service or injury. In unusual circumstances a prisoner may receive credit for donating blood, under regulations prescribed by the ~~Board~~ Director, to blood banks licensed by or subject to regulations of the State Board of Health. The ~~Board~~ Director may allow the credit permitted by this section to a prisoner who has been sentenced to the Department of Corrections but who is confined in a local correctional facility.

Except as provided hereafter, any credit allowed under the provisions of this section shall be applied as provided in § 53.1-199. A prisoner who has been sentenced to a term of life imprisonment or to two or more life sentences shall be eligible for credits allowed under the provisions of this section. One-half of such credit shall be applied to reduce the period of time such prisoner shall serve before being eligible for parole.

Credits allowed under the provisions of this section may not be forfeited under § 53.1-189. Credits shall not be allowed under the provisions of this section to apply toward a term of confinement imposed upon a conviction of a felony offense committed on or after January 1, 1995.

§ 53.1-199. Eligibility for good conduct allowance; application.

Every person who, on or after July 1, 1981, has been convicted of a felony and every person convicted of a misdemeanor and to whom the provisions of §§ 53.1-151, 53.1-152 or § 53.1-153 apply, and every person who, in accordance with § 53.1-198, chooses the system of good conduct allowances set out herein, may be entitled to good conduct allowance not to exceed the amount set forth in § 53.1-201. Such good conduct allowance shall be applied to reduce the person's maximum term of confinement while he is confined in any state correctional facility. One-half of the credit allowed under the provisions of § 53.1-201 shall be applied to reduce the period of time a person shall serve before being eligible for parole.

Any person who, on or after July 1, 1993, has been sentenced upon a conviction of murder in the first degree, rape in violation of § 18.2-61, forcible sodomy, animate or inanimate object sexual penetration or aggravated sexual battery and any person who has been sentenced to a term of life imprisonment or two or more life sentences shall be classified within the system established by § 53.1-201. Such person shall be eligible for no more than ten days good conduct credit for each thirty days served, regardless of the class to which he is assigned. One-half of such credit shall be applied to reduce the period of time he shall serve before being eligible for parole. Additional good conduct credits may be approved by the ~~Board~~ Director for such persons in accordance with § 53.1-191.

§ 53.1-200. Conditions for good conduct allowance.

Regulations approved by the ~~Board~~ Director shall govern the earning of good conduct allowance. The regulations shall require, as a condition for earning the allowance, that a prisoner participate in an appropriate educational, training, work, counseling or substance abuse program or other program intended for his rehabilitation, as provided in § 53.1-32.1. The amount of good conduct allowance to be credited to those persons eligible therefor shall be based upon compliance with written prison rules or regulations; a demonstration of responsibility in the performance of assignments; and a demonstration of a desire for self-improvement.

§ 53.1-202.4. Director to establish certain rules, criteria, etc.

The ~~Board~~ Director shall:

1. Establish the criteria upon which a person shall be deemed to have earned sentence credits;
2. Establish the bases upon which earned sentence credits may be forfeited;
3. Establish the number of earned sentence credits which will be forfeited for violations of various (i) institutional rules, (ii) program participation requirements or (iii) other requirements for the retention of sentence credits; and
4. Establish such additional requirements for the earning of sentence credits as may be deemed advisable and as are consistent with the purposes of this article.

§ 53.1-228.1. Inmate payment for damaged property.

The ~~Board~~ Director, and each jail superintendent or sheriff who operates a correctional facility, are authorized to establish administrative procedures for recovering, from an inmate, the cost of replacing or repairing any facility-owned or facility-issued property which is proven to have been intentionally damaged or destroyed by the inmate. Such administrative procedures shall ensure that the inmate is afforded due process.

§ 53.1-262. State correctional facilities; private contracts.

The Director, subject to any applicable regulations which may be promulgated by the Board pursuant to § 53.1-266 and subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), is hereby authorized to enter into contracts with prison contractors for the financing, site selection, acquisition, construction, maintenance, leasing, management or operation of prison facilities, or any combination of those services, subject to the requirements and limitations set out below.

1. Contracts entered into under the terms of this chapter shall be with an entity submitting an acceptable response pursuant to a request for proposals. An acceptable response shall be one which meets all the requirements in the request for proposals. However, no contract for correctional services may be entered into unless the private contractor demonstrates that it has:

a. The qualifications, experience and management personnel necessary to carry out the terms of this contract;

b. The financial resources to provide indemnification for liability arising from prison management projects;

c. Evidence of past performance of similar contracts which shall include the experience of persons in management with such entity and may include the experience of the parent of such entity; and

d. The ability to comply with all applicable federal and state constitutional standards; federal, state, and local laws; court orders; and correctional standards.

2. Contracts awarded under the provisions of this chapter, including contracts for the provision of correctional services or for the lease or use of public lands or buildings for use in the operation of facilities, may be entered into for a period of up to thirty years, subject to the requirements for annual appropriation of funds by the Commonwealth.

3. Contracts awarded under the provisions of this chapter shall, at a minimum, comply with the following:

a. Provide for internal and perimeter security to protect the public, employees and inmates;

b. Provide inmates with work or training opportunities while incarcerated; however, the contractor shall not benefit financially from the labor of inmates;

c. Impose discipline on inmates only in accordance with applicable regulations; and

d. Provide proper food, clothing, housing and medical care for inmates.

4. No contract for correctional services shall be entered into unless the following requirements are met:

a. The contractor provides audited financial statements for the previous five years or for each of the years the contractor has been in operation, if fewer than five years, and provides other financial information as requested; and

b. The contractor provides an adequate plan of indemnification, specifically including indemnity for civil rights claims. The indemnification plan shall be adequate to protect the Commonwealth and public officials from all claims and losses incurred as a result of the contract. Nothing herein is intended to deprive a prison contractor or the Commonwealth of the benefits of any law limiting exposure to liability or setting a limit on damages.

5. No contract for correctional services shall be executed by the Director nor shall any funds be expended for the contract unless:

a. The proposed contract complies with any applicable regulations which may be promulgated by the Board ~~Director~~ pursuant to § 53.1-266;

b. An appropriation for the services to be provided under the contract has been expressly approved as is otherwise provided by law;

c. The correctional services proposed by the contract are of at least the same quality as those routinely provided by the Department to similar types of inmates; and

d. An evaluation of the proposed contract demonstrates a cost benefit to the Commonwealth when compared to alternative means of providing the services through governmental agencies.

6. A site proposed by a contractor for the construction of a prison facility shall not be subject to the approval procedure set forth in § 53.1-19. However, no contract for the construction and operation of a private correctional facility shall be entered into nor shall any funds be expended for the contract unless the local governing body, by duly adopted resolution, consents to the siting and construction of such facility within the boundaries of the locality.

§ 53.1-266. Department shall promulgate regulations.

The ~~Board~~ Director shall make, adopt and promulgate regulations governing the following aspects of private management and operation of prison facilities:

1. Contingency plans for state operation of a contractor-operated facility in the event of a termination of the contract;

2. Use of deadly and nondeadly force by prison contractors' security personnel;

3. Methods of monitoring a contractor-operated facility by the Department ~~or the Board~~;

4. Public access to a contractor-operated facility; and

- 1475 5. Such other regulations as may be necessary to carry out the provisions of this chapter.
1476 2. That §§ 53.1-5.1 and 53.1-15 of the Code of Virginia are repealed.
1477 3. That the State Board of Local and Regional Jails, formerly known as the State Board of
1478 Corrections, is continued, and wherever "State Board of Corrections" is used in the Code of
1479 Virginia, it shall mean the State Board of Local and Regional Jails.
1480 4. That the standards, policies, rules, and regulations adopted by the State Board of Corrections in
1481 effect on the effective date of this act shall continue in effect until such time as amended or
1482 repealed by the State Board of Local and Regional Jails.