CODE OF VIRGINIA

Title 53.1

Prisons and Other Methods of Correction

Title 53.1 - PRISONS AND OTHER METHODS OF CORRECTION

Chapter 1 - ADMINISTRATION GENERALLY

Article 1 - General Provisions

§ 53.1-1. Definitions.

As used in this title, unless the context requires a different meaning:

"Board" or "State Board" means the State Board of 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.

"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.

Code 1950, §§ 53-9, 53-19.5, 53-19.18, 53-19.18:1, 53-19.23; 1966, c. 300; 1970, c. 648; 1974, cc. 44, 45; 1976, cc. 740, 756; 1977, c. 187; 1981, c. 487; 1982, c. 636; 1983, c. 477; 1991, c. 383; 1995, c. 224; 1999, c. 845; 2000, c. 807; 2020, c. 759.

§ 53.1-1.01. Certified mail; subsequent mail or notices may be sent by regular mail.

Whenever in this title the Board or the Department is required to send any mail or notice by certified mail and such mail or notice is sent certified mail, return receipt requested, then any subsequent, identical mail or notice that is sent by the Board or the Department may be sent by regular mail.

2011, c. 566.

§ 53.1-1.1. Telephone systems within correctional facilities.

The Department of Corrections shall offer debit or prepaid telephone systems, in addition to any existing collect calling systems, which allow telephone calls to be placed to the telephone number or numbers on an approved call list. Such telephone systems may be established with the lowest available rates.

2005, c. 612.

§ 53.1-1.2. Visitation policies.

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

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

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

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

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

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

6. If the detector canine search, scanning, or wanding indicates the possibility of contraband, the visitor shall have the option of consenting to a search of his person. If the visitor does not consent to a search of his person after only a detector canine search indicates the possibility of contraband and the

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

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

2020, c. 1170.

Article 2 - State Board of Local and Regional Jails

§ 53.1-2. Appointment of members; qualifications; terms and vacancies.

There shall be a State Board of 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.

Code 1950, §§ 53-19.23, 53-19.24; 1974, cc. 44, 45; 1981, c. 487; 1982, c. 636; 2017, c. 759; 2020, c. 759.

§ 53.1-3. Persons ineligible for appointment.

No director, officer or employee of an institution subject to the provisions of this title shall be appointed a member of the Board.

Code 1950, § 53-19.32; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-4. Meetings; quorum; officers; main office.

The Board shall meet at least six times each calendar year and at other times as it deems appropriate. Five members of the Board shall constitute a quorum. The Board shall select a chairman and secretary from its membership. The main office of the Board shall be in Richmond.

Code 1950, §§ 53-19.25, 53-19.29, 53-19.30, 53-19.31; 1974, cc. 44, 45; 1982, c. 636.

§ 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; and

7. To 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.

Code 1950, §§ 53-19.33, 53-19.34, 53-19.39; 1974, cc. 44, 45; 1976, c. 249; 1982, c. 636; 1984, c. 720; 2011, c. 375; 2012, cc. 803, 835; 2015, c. 293; 2017, c. 759; 2019, cc. 695, 696; 2020, c. 759.

§ 53.1-5.1. Repealed.

Repealed by Acts 2020, c. 759, cl. 2.

§ 53.1-5.2. Compilation of certain data for redistricting purposes.

A. The Board shall direct the sheriffs of all local jails and the jail superintendents of all regional jails to provide to it, no later than May 1 of any year in which the decennial census is taken, information regarding each person incarcerated in a local or regional jail on April 1 of that year. Such information shall include, for each person incarcerated, (i) his residential street address at the time of incarceration, or other legal residence, if known; (ii) his race, his ethnicity as identified by him, and whether he is 18 years of age or older; and (iii) the street address of the correctional facility in which he was incarcerated on April 1 of that year. Upon receipt of such information, the Board shall assign to each person a unique identifier, other than his name or offender identification number.

B. Pursuant to § 24.2-314, the Board shall provide to the Division of Legislative Services, not later than July 1 of any year in which the decennial census is taken and in a format specified by the Division of Legislative Services, the information specified in subsection A, including the Board-assigned unique identifier.

2020, cc. 1229, 1265.

§ 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, administer oaths, and 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.

Code 1950, § 53-19.36; 1974, cc. 44, 45; 1982, c. 636; 2020, c. 759.

§ 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.

2020, c. 759.

§ 53.1-7. Repealed.

Repealed by Acts 2011, c. 375, cl. 2.

Article 3 - Department of Corrections and Director of Corrections

§ 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.

Code 1950, § 53-19.5; 1974, cc. 44, 45; 1982, c. 636; 2020, c. 759.

§ 53.1-9. Appointment of Director; term.

A Director of Corrections shall be appointed by the Governor, subject to confirmation by each house of the General Assembly.

The Director shall be appointed for a term coincident with that of the Governor and shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as original appointments are made.

Code 1950, §§ 53-19.6, 53-19.7; 1974, cc. 44, 45; 1982, c. 636.

§ 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, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities;

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the

provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

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

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

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

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

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

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

11. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-

enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General;

12. To prescribe and enforce rules prohibiting the possession of obscene materials, as defined in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities;

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

14. To promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in § 32.1-162.16, to be conducted or authorized by the Department. The regulations shall 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; and

15. To provide, pursuant to § 24.2-314, to the Division of Legislative Services, not later than July 1 of any year in which the decennial census is taken and in a format specified by the Division of Legislative Services, information regarding each person incarcerated in a state correctional facility on April 1 of that year. Such information shall include, for each person incarcerated, (i) a unique identifier, other than his name or offender identification number, assigned by the Director; (ii) his residential street address at the time of incarceration, or other legal residence, if known; (iii) his race, his ethnicity as identified by him, and whether he is 18 years of age or older; and (iv) the street address of the correctional facility in which he was incarcerated on April 1 of that year.

Code 1950, §§ 53-19.8, 53-19.14; 1974, cc. 44, 45; 1982, c. 636; 1994, 2nd Sp. Sess., c. 7; 1995, c. 725; 1997, c. 894; 2003, cc. 94, 516, 854; 2006, cc. 431, 500; 2007, c. 392; 2009, cc. 39, 621; 2012, cc. 803, 835; 2013, cc. 143, 214; 2014, c. 84; 2015, cc. 99, 293; 2016, c. 205; 2019, c. 618; 2020, cc. 759, 1229, 1265.

§ 53.1-11. Bond of Director.

The Director shall give bond with corporate surety in such penalty as may be fixed by the Governor, conditioned upon faithful discharge of his duties. The premium on such bond shall be paid for as other expenses of the Department are paid.

Code 1950, § 53-19.10; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-12. Divisions of Department; division heads.

The Director shall establish in the Department such divisions and regional offices as may be necessary and shall appoint heads of these divisions and offices in accordance with the provisions of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2.

Code 1950, §§ 53-19.11, 53-19.12; 1974, cc. 44, 45; 1978, c. 555; 1982, c. 636.

§ 53.1-13. Bonds of agents and employees.

Proper bonds shall be required of all agents and employees who handle any funds which come into custody of the Department. The premiums on the bonds shall be paid from funds appropriated to the Department.

Code 1950, § 53-19.16; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-14. Repealed.

Repealed by Acts 1984, c. 734.

§ 53.1-15. Repealed.

Repealed by Acts 2020, c. 759, cl. 2.

§ 53.1-16. Repealed.

Repealed by Acts 2011, cc. 798 and 871, cl. 2, effective July 1, 2012.

§ 53.1-17. Defense of Department of Corrections employees.

If any employee of the Department shall be brought before any regulatory or administrative body, summoned before any regular or special grand jury, or, arrested, indicted, or prosecuted on any charge arising out of any act committed in the discharge of his official duties, the Director may, with the approval of the Governor, pay in whole or in part, counsel employed by such employee to represent him, provided he is neither convicted nor terminated from his employment. Such compensation shall be paid from funds appropriated to the Department.

Code 1950, §§ 53-16.1, 53-19.19; 1958, c. 542; 1970, c. 648; 1974, cc. 44, 45; 1976, c. 517; 1982, c. 636; 1989, c. 298.

§ 53.1-17.1. Continuous quality improvement committee; report.

A. The Director shall establish a health care continuous quality improvement committee, which shall be composed of the Director, or his designee, and at least one of each of the following: a health services director, physician, nurse, dentist, mental health director, pharmacist, psychiatrist, specialist in infection control, and grievance counselor employed by the Department. The committee shall (i) identify appropriate criteria for evaluation of the quality of health care services provided by the Department, (ii) monitor and evaluate the quality of health care services provided by the Department utilizing the criteria identified, and (iii) develop strategies to improve the quality of health care services provided by the Department.

B. Beginning July 1, 2020, the committee established pursuant to subsection A shall publish quarterly continuous quality improvement reports setting forth such data and information as the committee shall deem appropriate on a website maintained by the Department. Each facility shall submit quarterly continuous quality improvement reports containing such data and information as may be required by the committee at such times as may be required by the committee, for inclusion in the committee's quarterly continuous quality improvement report.

2019, cc. 320, 463.

Chapter 2 - State Correctional Facilities

Article 1 - General Provisions

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

The Department shall have custody of both the real and personal property of state correctional facilities. The 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.

Code 1950, § 53-20; 1970, c. 648; 1982, c. 636; 2020, c. 759.

§ 53.1-19. Establishment of correctional institutions.

The Director 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 Department, title shall be taken in the name of the Commonwealth. The original names of all state correctional facilities shall be designated by the Department and approved by the Governor.

Code 1950, § 53-76.1; 1970, c. 648; 1974, cc. 44, 45; 1976, c. 393; 1982, c. 636; 1995, c. 846; 1996, c. 234; 2020, c. 759.

§ 53.1-20. Commitment of convicted persons to custody of Director.

A. Every person convicted of a felony committed before January 1, 1995, and sentenced to the Department for a total period of more than two years shall be committed by the court to the custody of the Director of the Department. The Director shall receive all such persons into the state corrections system

within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic transmission to the Director by the clerk.

B. Persons convicted of felonies committed on or after January 1, 1995, and sentenced to the Department or sentenced to confinement in jail for a year or more shall be placed in the custody of the Department and received by the Director into the state corrections system within sixty days of the date on which the final sentencing order is mailed by certified letter or sent by electronic transmission to the Director by the clerk.

C. If the Governor finds that the number of prisoners in state facilities poses a threat to public safety, it shall be within the discretion of the Director to determine the priority for receiving prisoners into the state corrections system from local correctional facilities.

D. All felons sentenced to a period of incarceration and not placed in an adult state correctional facility pursuant to this section shall serve their sentences in local correctional facilities which shall not include a secure facility or detention home as defined in § 16.1-228.

E. Felons committed to the custody of the Department for a new felony offense shall be received by the Director into the state corrections system in accordance with the provisions of this section without any delay for resolution of (i) issues of alleged parole violations set for hearing before the Parole Board or (ii) any other pending parole-related administrative matter.

F. After accounting for safety, security, and operational factors, the Director shall place prisoners who are known primary caretakers of minor children in a facility as close as possible to such children.

Code 1950, §§ 19-270, 19.1-296, 53-21.1; 1960, c. 366; 1966, c. 522; 1970, cc. 67, 648; 1972, c. 145; 1973, c. 330; 1974, cc. 44, 45, 506; 1981, c. 529; 1982, c. 636; 1990, cc. 676, 768; 1993, c. 502; 1994, cc. 128, 859, 949; 1994, 2nd Sp. Sess., cc. 1, 2; 1997, c. 840; 2020, c. 526.

§ 53.1-20.1. Compensation of local jails for cost of incarceration.

If the Director is unable to accommodate in a state correctional facility any convicted felon sentenced to the Department for a felony committed before January 1, 1995, whose sentence totals more than two years or who is convicted of a felony committed on or after January 1, 1995, and who is required to serve a total period of one year or more in a state correctional facility, the Department of Corrections shall compensate local jails for the cost of incarceration as provided for in the general appropriation act beginning on the sixty-first day following the date of mailing by certified letter or electronic transmittal by the clerk of the committing court to the Director of the final order.

1982, c. 680; 1990, cc. 676, 768; 1994, 2nd Sp. Sess., cc. 1, 2; 1997, c. 775.

§ 53.1-21. Transfer of prisoners into and between state and local correctional facilities.

A. Any person who (1) is accused or convicted of an offense (a) in violation of any county, city or town ordinance within the Commonwealth, (b) against the laws of the Commonwealth or (c) against the laws of any other state or country, or (2) is a witness held in any case in which the Commonwealth is a party and who is confined in a state or local correctional facility, may be transferred by the Director,

subject to the provisions of § 53.1-20, to any other state or local correctional facility which he may designate.

B. The following limitations shall apply to the transfer of persons into the custody of the Department:

1. No person convicted of violating § 20-61 shall be committed or transferred to the custody of the Department.

2. No person who is convicted of any violation pursuant to Article 9 (§ 46.2-355.1 et seq.) of Chapter 3 of Title 46.2 shall be committed or transferred to the custody of the Department without the consent of the Director.

3. No person who is convicted of a misdemeanor or a felony and receives a jail sentence of twelve months or less shall be committed or transferred to the custody of the Department without the consent of the Director.

4. Beginning July 1, 1991, and subject to the provisions of § 53.1-20, no person, whether convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the combined length of all sentences to be served totals two years or less, without the consent of the Director.

Code 1950, §§ 19.2-310.1, 53-19.17, 53-84, 53-103, 53-135.1; Code 1950, § 53-8; 1952, c. 557; 1960, c. 432; 1962, c. 326; 1968, c. 357; 1970, c. 648; 1971, Ex. Sess., c. 110; 1972, c. 573; 1973, cc. 330, 342; 1974, cc. 44, 45; 1976, cc. 287, 462; 1982, c. 636; 1990, cc. 676, 768; 1999, cc. 945, 987.

§ 53.1-22. Misdemeanant suspected of having contagious disease.

Whenever any court shall have reason to believe that a person convicted by it of a misdemeanor who is sentenced to serve time in a local correctional facility is afflicted with any contagious or infectious disease dangerous to the public health, the court shall have such person examined by a licensed physician or licensed nurse practitioner. If the examination reveals the person is afflicted with such disease, the court may commit the person directly to the Department.

Code 1950, § 53-89; 1970, c. 648; 1974, cc. 44, 45; 1982, c. 636; 2004, c. 855.

§ 53.1-23. Fingerprints, photographs and description.

A. Photographs, fingerprints, and a description of each person received by the Department shall be taken and filed for identification purposes. If the person is serving a sentence for an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390, such photographs, fingerprints, and description of such person received by the Department shall be provided to the Central Criminal Records Exchange and, unless otherwise prohibited by law, may be classified and filed as part of the criminal history record information of that person. Subject to the provisions of §§ 19.2-387 through 19.2-392, the Department shall cooperate with federal, state, county, and city law-enforcement agencies, insofar as it may deem proper, in disclosing information concerning such persons and in the taking of fingerprints and photographs of persons charged with the commission of an offense for which a report to the Central Criminal Records Exchange is required under subsection A of § 19.2-390.

B. The Department shall review each person's criminal history record at least 60 days prior to his scheduled release from a state correctional facility to determine whether all offenses for which that person has been committed 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 person 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.

Code 1950, § 53-40; 1970, c. 648; 1982, c. 636; 2019, cc. 782, 783.

§ 53.1-23.1. Repealed.

Repealed by Acts 1990, c. 669.

§ 53.1-23.2. Department to give notice of the receipt of certain prisoners.

A. At the time of receipt of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register and submit to be photographed as part of the registration. The Department shall forthwith forward the registration information and photograph to the Department of State Police on the date of the receipt of the prisoner.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was received. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

2006, cc. 857, 914.

§ 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 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.).

Code 1950, § 53-24; 1982, c. 636; 1994, c. 64; 2020, c. 759.

§ 53.1-25. Director to prescribe rules; rules to be available to prisoners.

The Director may prescribe rules for the preservation of state property and the health of prisoners in state correctional facilities and for the government thereof. Printed copies of all such rules shall be made available to prisoners under such terms and conditions as the Director may prescribe.

Code 1950, § 53-23; 1970, c. 648; 1977, c. 354; 1982, c. 636.

§ 53.1-25.1. Rules of state correctional facilities.

A. The Director shall prescribe rules for state correctional facilities to ensure that when physical contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe, to the greatest extent possible, the officer shall be the same gender as the inmate. However, such rules may allow for the suspension of the provisions of this subsection during the period of a declared emergency.

B. When contact is required between an officer and an inmate and when the inmate is required by circumstances to disrobe and the officer is not the same gender as the inmate, the officer involved shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the incident, containing the justification for the suspension of the provisions of subsection A.

2000, c. 807; 2020, c. 526.

§ 53.1-26. Confiscation of prohibited articles.

Any item of personal property which a prisoner in any state correctional facility is prohibited from possessing by the Code of Virginia or by the rules of the Director shall, when found in the possession of a prisoner, be confiscated and sold or destroyed as the Director may direct. Any funds from the sale of such property shall be invested and used as provided in § 53.1-44.

Code 1950, § 53-23.1; 1968, c. 222; 1982, c. 636.

§ 53.1-27. Establishment of stores in state correctional facilities.

The Director is hereby authorized to provide for the establishment and operation of stores or commissaries in state correctional facilities to deal in such articles as he deems proper. The profits from the operation of such stores shall be used for educational, recreational, pre-release and post-release reentry and transition services, or other purposes beneficial to the inmate population as may be prescribed by the Director.

Code 1950, § 53-19.9; 1974, cc. 44, 45; 1982, c. 636; 1996, cc. 28, 230; 2004, c. 417.

§ 53.1-28. Authority to fix discharge date; improper release; warrant, arrest and hearing.

For the purpose of scheduling and providing a uniform, effective and continual program of pre-release training and conditioning of prisoners, the Director shall have authority to discharge any prisoner within the Virginia penal system on any day within a period of 30 days prior to the date upon which such prisoner's term would normally expire. The Director shall provide each prisoner with the following documents upon discharge: (i) verification of the prisoner's work history while in custody; (ii) certification of all educational and treatment programs completed by the prisoner while in custody; and (iii) a copy of his medical records, so long as such prisoner requests a copy of his records at least 60 days prior to the date upon which the prisoner's term would expire. The Department shall develop procedures wherein the records are to be made available to the prisoner in a safe and secure manner.

The Director or his designee upon the discovery of an improper release or discharge of a prisoner from custody shall report such release or discharge to the circuit court of the jurisdiction wherein the prisoner was released or discharged. The circuit court shall then issue a warrant for the arrest of the prisoner which may be executed by any duly sworn correctional officer or law-enforcement officer. Such warrant shall direct that the prisoner be presented forthwith to the court to determine the propriety of the original discharge or release. After a hearing, if the court is satisfied that the release or discharge was made improperly, the prisoner shall be returned to the state correctional facility from which he was released or discharged, or to any other correctional facility designated by the Director to serve the remainder of his sentence.

Code 1950, § 53-37; 1964, c. 140; 1968, c. 303; 1982, c. 636; 2006, cc. 108, 132.

§ 53.1-29. Authority for correctional officers and other employees to carry weapons.

It shall be lawful for any correctional officer and any noncustodial employee who has been designated by the Director of the Department, and who has completed the basic course in firearms for correctional officers as approved by the Department of Criminal Justice Services, to carry and use sufficient weapons to prevent escapes, suppress rebellion, and defend or protect himself or others in the course of his assigned duties.

Code 1950, § 53-39; 1970, c. 648; 1979, c. 642; 1982, c. 636; 1984, c. 720; 1996, cc. 804, 838.

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

A. The Governor and members of the General Assembly 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 the time and conditions on which attorneys and other persons may enter any state correctional facility.

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

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

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

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

Code 1950, § 53-60.1; 1970, c. 648; 1978, c. 306; 1982, c. 636; 2010, c. 844; 2020, cc. 759, 1170, 1181.

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

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

Code 1950, § 53-19.38:1; 1978, c. 474; 1982, c. 636; 1984, c. 734; 1989, c. 733; 2020, c. 759.

§ 53.1-31.1. Transportation of prisoners.

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

B. Authorized corrections personnel from any other state, the United States, and any political subdivisions thereof who transport a prisoner through the Commonwealth, deliver a prisoner to the

Commonwealth, or take custody of a prisoner in the Commonwealth for transport to another jurisdiction are deemed to have lawful custody of such prisoner while in the Commonwealth.

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

2002, c. 240; 2003, c. 154; 2012, c. 827; 2015, c. 99.

§ 53.1-31.2. Notification of child support due by a prisoner.

The Department of Corrections shall cooperate with the Division of Child Support Enforcement to provide at regular intervals, but at least annually, a list of persons incarcerated. Upon receipt of such list, the Division shall identify those prisoners who are the subject of a court or administrative order requiring them to pay child support and the amount of each prisoner's obligation. The Division shall then inform the Department of the prisoners owing child support payments and the Department may inform the prisoner upon his reentry the amount of his arrearage.

2008, c. 763.

§ 53.1-31.3. Notification of incarcerated individuals ineligible for public assistance.

The Department shall, at regular intervals but at least monthly, provide the Department of Social Services with a list of all individuals committed to the custody of the Department of Corrections during the preceding month, to facilitate identification of prisoners who were receiving public assistance benefits prior to commitment to the custody of the Department and who may, as a result of their incarceration, be ineligible to receive such benefits.

2013, c. 218.

§ 53.1-31.4. Department of Corrections-issued identification.

Prior to the release or discharge of any prisoner who has been confined for at least 90 days and does not possess a government-issued identification card, birth certificate, and Social Security card, the Department shall provide the assistance necessary for such prisoner to apply for and obtain such identification and documents prior to his release or discharge, provided that the Department has or can readily obtain all records and information necessary for their issuance. If the prisoner is unable to obtain a government-issued identification card prior to his release or discharge, the Department shall provide the prisoner with a Department of Corrections Offender Identification form. If the Department receives a government-issued identification card, birth certificate, or Social Security card for a prisoner after his release or discharge, the Department shall forward such identification or document to the prisoner. Unless the prisoner is determined to be indigent pursuant to § 19.2-159, all costs and fees associated with applying for and obtaining any identification or documents pursuant to this section shall be paid by the prisoner.

2020, cc. 484, 523.

Article 2 - Treatment and Privileges of Prisoners

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

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

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

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

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

Code 1950, §§ 53-33, 53-94; 1970, c. 648; 1982, c. 636; 1992, c. 740; 1993, c. 768; 1995, cc. 766, 821; 1998, c. 798; 2009, cc. 740, 813, 840; 2010, c. 261; 2012, cc. 803, 835; 2020, c. 759.

§ 53.1-32.01. Payment for bodily injury.

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

1997, c. 125; 2020, c. 759.

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

A. The Director shall maintain a system of classification which (i) evaluates all prisoners according to background, aptitude, education, and risk and (ii) based on an assessment of needs, determines

appropriate program assignments including career and technical education, work activities and employment, academic activities which at a minimum meet the requirements of § 66-13.1, counseling, alcohol and substance abuse treatment, and such related activities as may be necessary to assist prisoners in the successful transition to free society and gainful employment.

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

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

1. From July 1, 1994, through June 30, 1995, an average of 24 hours per week.

2. From July 1, 1995, through June 30, 1996, an average of 28 hours per week.

3. From July 1, 1996, through June 30, 1997, an average of 30 hours per week.

4. From July 1, 1997, through June 30, 1998, an average of 36 hours per week.

5. From July 1, 1998, and thereafter, an average of 40 hours per week.

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

E. The Director shall maintain a master program listing, by facility and program location, of all available permanent and temporary positions. The Director may, consistent with § 53.1-43, establish a system of pay incentives for such assignments based upon 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.

1993, c. 768; 1994, 2nd Sp. Sess., cc. 1, 2; 2001, c. 483; 2012, cc. 803, 835; 2020, c. 759.

§ 53.1-32.2. Reentry planning.

The Department shall develop and implement, in cooperation with and taking into account the individual needs and willingness to participate of the inmate, a comprehensive reentry plan for each person committed to the supervision of the Department, as soon as practicable, considering the prisoner's anticipated release date. Such plan shall identify educational, vocational, therapeutic, and other

programs necessary to prepare the person for successful transition from prison to society upon the person's discharge and shall include mentor pairing to the extent possible. The Department shall coordinate any reentry programs provided through the Department pursuant to the reentry plan with any other reentry or other relevant programs offered by any public or private organization or entity at the local, state, or federal level, which are also included in the plan.

2008, cc. 177, 402.

§ 53.1-33. Physical examination of prisoner; ability to work.

Each person received by the Department shall be examined by a licensed physician upon his arrival, within 30 days prior to any work assignment in food services, medical services, or cosmetological services or a change in work assignment, and at such other times thereafter as may be deemed necessary. The work that a prisoner is required to do shall be dependent upon the report of the physician as to his physical and mental capacity.

The warden, in consultation with the physician, may exclude prisoners, on a case-by-case basis, from work assignments based upon the classification of the institution and the safety and good order of the institution. Special consideration should be used in assigning any inmate with an infectious disease to assignments in food services, medical services, and cosmetological services.

Code 1950, § 53-47; 1970, c. 630; 1979, c. 700; 1982, c. 636; 2007, c. 591.

§ 53.1-33.1. Mandatory testing for human immunodeficiency virus.

The Department shall offer to test each inmate, who does not have a record of a positive test result, for infection with human immunodeficiency virus within 60 days of the scheduled discharge of the inmate from a state correctional facility. Prior to administering a test for human immunodeficiency virus, the Department shall inform, or cause to be informed, the inmate to be tested of the purpose of the test. Any inmate may choose not to be tested.

2011, cc. 398, 415.

§ 53.1-34. Treatment of prisoner with contagious disease.

The Director may, upon the application of the person in charge of any state correctional facility who has been requested in writing so to do by the physician at such facility, have removed from such facility any prisoner therein who has contracted any contagious or infectious disease dangerous to the public health to some place to be designated by the Director. When any prisoner is so removed, he shall be safely kept and treated for such disease and, as soon as he recovers his health, be returned to such facility unless the term of his imprisonment has expired, in which event he shall be discharged, but not until all danger of his spreading contagion has passed. Expenses incurred by reason of this section shall be borne by the Commonwealth.

Code 1950, § 53-94; 1970, c. 648; 1979, c. 109; 1982, c. 636.

§ 53.1-35. Correspondence privileges; receipt of publications.

The Director is authorized to prescribe reasonable rules regarding correspondence privileges and the receipt of books, newspapers and periodicals by prisoners within state correctional facilities.

Code 1950, § 53-34; 1970, c. 648; 1982, c. 636.

§ 53.1-35.1. Electronic visitation and messaging with inmates; fees.

The Director is authorized to prescribe reasonable rules regarding electronic visitation systems or electronic messaging systems, including Voice-over-Internet Protocol technology and web-based communication systems, for communication between prisoners and third parties and collection of a fee for the system utilized. Any state correctional facility that utilizes such systems shall establish such system allowing for the security needs of the facility. Any state correctional facility that utilizes such system shall not prohibit in-person visitation.

This section does not apply to telephonic communication systems or to electronic video and audio communication systems used in judicial proceedings.

2018, c. 66.

§ 53.1-35.2. Visitation of certain prisoners by minor dependents.

A. The Director is authorized to prescribe reasonable rules regarding visitation that shall include authorization of visitation by minor dependents of prisoners who are primary caretakers of minor children with Level 1 or Level 2 security classifications that include (i) opportunities for dependent children under the age of 18 to visit their incarcerated primary caretakers at least twice per week unless an employee of the Department has a reasonable belief that the child (a) may be harmed during visitation or (b) poses a security risk due to a gang affiliation, prior conviction, or past violation of a correctional facility's contraband policy; (ii) the elimination of restrictions on the number of dependent children under the age of 18 that may be permitted visitation privileges; and (iii) authorization for contact visits for prisoners who are primary caretakers of minor children.

B. Nothing in this section shall prevent the Department from refusing visitation of a minor child based on an individualized determination by the Director, warden, or superintendent that such visitation presents security or operational risks.

2020, c. 526.

§ 53.1-36. Prisoners may assist in medical research programs.

Subject to the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1, the Director may permit such prisoners as may volunteer to undergo experimental treatment or tests in state or federal medical research programs.

Code 1950, § 53-57.1; 1962, c. 48; 1982, c. 636; 1992, c. 603.

§ 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 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.).

Code 1950, § 53-37.1; 1972, c. 59; 1973, c. 234; 1976, c. 476; 1982, c. 636; 1989, c. 652; 2003, c. 846; 2020, c. 759.

§ 53.1-38. When ineligible for furloughs.

Any prisoner who is convicted of a felony included within the provisions of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 or arson, burglary or robbery committed while on administrative furlough, shall, after conviction therefor, be ineligible for further furlough during the remainder of the sentence or sentences imposed upon him prior to furlough.

Code 1950, § 53-37.2; 1976, c. 210; 1982, c. 636.

§ 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.

Code 1950, § 53-55; 1982, c. 636; 2020, c. 759.

§ 53.1-39.1. Restrictive housing; data collection and reporting; report.

A. As used in this section:

"Offender" means an adult or juvenile who is confined in a state correctional facility.

"Restrictive housing" means special-purpose bed assignments operated under maximum security regulations and procedures, and utilized under proper administrative process, for the personal protection or custodial management of offenders. The Department of Corrections' restrictive housing shall, at a minimum, adhere to the standards adopted by the American Correctional Association, the accrediting body for the corrections industry.

"Shared Allied Management Unit" or "SAM Unit" means a general population environment used to promote safety within institutions by avoiding the use of restrictive housing to manage vulnerable populations that typically require a high level of services from security, mental health, or medical staff.

"Vulnerable population" means offenders who are at a greater risk of victimization or being bullied in the general population due to characteristics such as cognitive challenge, age (seniors and youthful), small stature, or timid personalities.

B. The Department shall report to the General Assembly and the Governor on or before October 1 of each year the following information for the Department, in the aggregate for the previous fiscal year:

1. The average daily population;

2. The number of offenders who were placed in and the number of offenders who were released from restrictive housing;

3. The age, sex, race, ethnicity, mental health code, medical class code, security level, and custody level classification of each offender housed in restrictive housing or a SAM Unit;

4. The disciplinary offense history preceding placement in restrictive housing or a SAM Unit;

5. The number of days each offender spent in restrictive housing;

6. The number of offenders released from restrictive housing directly into the community;

7. The number of full-time mental health staff; and

8. Any changes made during the reporting period to written policies or procedures of the Department and each state correctional facility relating to the use and conditions of restrictive housing and SAM Units.

C. The Department shall submit the annual report to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports, and the annual report shall be posted on the General Assembly's website. The Department shall publish the report on the Department's website following its submission to the Governor, the Chairmen of the House Committee on Militia, Police and Public Safety and the Senate Committee on Rehabilitation and Social Services, and the Clerks of the House of Delegates and the Senate.

2019, cc. 453, 516.

§ 53.1-40. Appointment of counsel for indigent prisoners.

The judge of a circuit court in whose county or city a state correctional facility is located shall, on motion of the attorney for the Commonwealth for such county or city, when he is requested so to do by the superintendent or warden of a state correctional facility, appoint, for a period of no less than thirty days nor more than one year, one or more discreet and competent attorneys-at-law to counsel and assist indigent prisoners therein confined regarding any legal matter relating to their incarceration.

An attorney so appointed shall be paid as directed by the court from the criminal fund reasonable compensation on an hourly basis and necessary expenses based upon monthly reports to be furnished the court by him.

Code 1950, § 53-21.2; 1972, c. 773; 1979, c. 700; 1982, c. 636; 1997, c. 207.

§ 53.1-40.01. Conditional release of geriatric prisoners.

Any person serving a sentence imposed upon a conviction for a felony offense, other than a Class 1 felony, (i) who has reached the age of sixty-five or older and who has served at least five years of the sentence imposed or (ii) who has reached the age of sixty or older and who has served at least ten years of the sentence imposed may petition the Parole Board for conditional release. The Parole Board shall promulgate regulations to implement the provisions of this section.

1994, 2nd Sp. Sess., cc. 1, 2; 2001, cc. 446, 487.

Article 2.1 - MEDICAL AND MENTAL HEALTH CARE; INVOLUNTARY ADMISSION AND TREATMENT

§ 53.1-40.1. Medical and mental health treatment of prisoners incapable of giving consent.

A. The Director or his designee may petition the circuit court or any district court judge or any special justice, as defined in § 37.2-100, herein referred to as the court, of the county or city in which the prisoner is located for an order authorizing treatment of a prisoner sentenced and committed to the Department of Corrections. The court shall authorize such treatment in a facility designated by the Director

upon finding, on the basis of clear and convincing evidence, that the prisoner is incapable, either mentally or physically, of giving informed consent to such treatment and that the proposed treatment is in the best interests of the prisoner.

B. Prior to the court's authorization of such treatment, the court shall appoint an attorney to represent the interests of the prisoner. Evidence shall be presented concerning the prisoner's condition and proposed treatment, which evidence may, in the court's discretion and in the absence of objection by the prisoner or the prisoner's attorney, be submitted by affidavit.

C. Any order authorizing treatment pursuant to subsection A shall describe the treatment authorized and authorize generally such examinations, tests, medications, and other treatments as are in the best interests of the prisoner but may not authorize nontherapeutic sterilization, abortion, or psychosurgery. Such order shall require the licensed physician, psychiatrist, clinical psychologist, professional counselor, or clinical social worker acting within his area of expertise who is treating the prisoner to report to the court and the prisoner's attorney any change in the prisoner's condition resulting in restoration of the prisoner's capability to consent prior to completion of the authorized treatment and related services. Upon receipt of such report, the court may enter such order withdrawing or modifying its prior authorization as it deems appropriate. Any petition or order under this section may be orally presented or entered, provided a written order is subsequently executed.

D. Any order of a judge under subsection A may be appealed de novo within 10 days to the circuit court for the jurisdiction where the prisoner is located, and any order of a circuit court hereunder, either originally or on appeal, may be appealed within 10 days to the Court of Appeals, which shall give such appeal priority and hear the appeal as soon as possible.

E. Whenever the director of any hospital or facility reasonably believes that treatment is necessary to protect the life, health, or safety of a prisoner, such treatment may be given during the period allowed for any appeal unless prohibited by order of a court of record wherein the appeal is pending.

F. Upon the advice of a licensed physician, psychiatrist, or clinical psychologist acting within his area of expertise who has attempted to obtain consent and upon a finding of probable cause to believe that a prisoner is incapable, due to any physical or mental condition, of giving informed consent to treatment and that the medical standard of care calls for testing, observation, or other treatment within the next 12 hours to prevent death, disability or a serious irreversible condition, the court or, if the court is unavailable, a magistrate shall issue an order authorizing temporary admission of the prisoner to a hospital or other health care facility and authorizing such testing, observation, or other treatment. Such order shall expire after a period of 12 hours unless extended by the court as part of an order authorizing treatment under subsection A.

G. Any licensed health or mental health professional or licensed facility providing services pursuant to the court's or magistrate's authorization as provided in this section shall have no liability arising out of a claim to the extent it is based on lack of consent to such services. Any such professional or facility providing services with the consent of the prisoner receiving treatment shall have no liability arising

out of a claim to the extent it is based on lack of capacity to consent if a court or a magistrate has denied a petition hereunder to authorize such services, and such denial was based on an affirmative finding that the prisoner was capable of making an informed decision regarding the proposed services.

H. Nothing in this section shall be deemed to limit or repeal any common law rule relating to consent for medical treatment or the right to apply or the authority conferred by any other applicable statute or regulation relating to consent.

1988, c. 873; 1997, c. 801; 2005, c. 716; 2016, c. 211.

§ 53.1-40.2. Involuntary admission of prisoners with mental illness.

A. Upon the petition of the Director or his designee, any district court judge or any special justice, as defined by § 37.2-100, of the county or city where the prisoner is located may issue an order authorizing involuntary admission of a prisoner who is sentenced and committed to the Department of Corrections and who is alleged or reliably reported to have a mental illness to a degree that warrants hospitalization.

B. Such prisoner may be involuntarily admitted to a hospital or facility for the care and treatment of persons with mental illness by complying with the following admission procedures:

1. A hearing on the petition shall be scheduled as soon as possible, allowing the prisoner an opportunity to prepare any defenses which he may have, obtain independent evaluation and expert opinion at his own expense, and summons other witnesses.

2. Prior to such hearing, the judge or special justice shall fully inform the prisoner of the allegations of the petition, the standard upon which he may be admitted involuntarily, the right of appeal from such hearing to the circuit court, and the right to jury trial on appeal. The judge or special justice shall ascertain if the prisoner is represented by counsel, and, if he is not represented by counsel, the judge or special justice shall appoint an attorney to represent the prisoner.

3. The judge or special justice shall require an examination of such prisoner by a psychiatrist, clinical psychologist, or clinical social worker who is licensed in Virginia or, if such psychiatrist, clinical psychologist, or clinical social worker is not available, a physician or psychologist who is licensed in Virginia and who is qualified in the diagnosis of mental illness. The judge or special justice shall summons the examiner, who shall certify that he has personally examined the individual and has probable cause to believe that the prisoner does or does not have mental illness, that there does or does not exist a substantial likelihood that, as a result of mental illness, the prisoner will, in the near future, cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, and that the prisoner does or does not require involuntary hospitalization. The judge or special justice may accept written certification of the examiner's findings if the examination has been personally made within the preceding five days and if there is no objection to the acceptance of such written certification by the prisoner or his attorney.

4. If the judge or special justice, after observing the prisoner and obtaining the necessary positive certification and other relevant evidence, finds specifically that (i) the prisoner has a mental illness and that there exists a substantial likelihood that, as a result of mental illness, the prisoner will, in the near future, (a) cause serious physical harm to himself or others as evidenced by recent behavior causing, attempting, or threatening harm and other relevant information, if any, or (b) suffer serious harm due to his lack of capacity to protect himself from harm or to provide for his basic human needs, and (ii) alternatives to involuntary admission have been investigated and deemed unsuitable and there is no less restrictive alternative to such admission, the judge or special justice shall by written order and specific findings so certify and order that the prisoner be placed in a hospital or other facility designated by the Director for a period not to exceed 180 days from the date of the court order. Such placement shall be in a hospital or other facility for the care and treatment of persons with mental illness that is licensed or operated by the Department of Behavioral Health and Developmental Services.

5. The judge or special justice shall also order that the relevant medical records of such prisoner be released to the hospital, facility, or program in which he is placed upon request of the treating physician or director of the hospital, facility, or program.

6. The Department shall prepare the forms required in procedures for admission as approved by the Attorney General. These forms, which shall be the legal forms used in such admissions, shall be distributed by the Department to the clerks of the general district courts of the various counties and cities of the Commonwealth and to the directors of the respective state hospitals.

1988, c. 873; 2005, c. 716; 2008, cc. 779, 850, 870; 2009, cc. 813, 840; 2020, c. 945.

§ 53.1-40.3. Place of hearing or proceeding.

Any hearing held by a court pursuant to § 53.1-40.1 or 53.1-40.2 may be held in any courtroom available within the county or city wherein the prisoner is located or any appropriate place which may be made available by the Director and approved by the judge. Nothing herein shall be construed as prohibiting holding the hearing on the grounds of a state or local correctional facility or a hospital or facility for the care and treatment of individuals with mental illness.

1988, c. 873; 2012, cc. 476, 507.

§ 53.1-40.4. Appeal of order authorizing involuntary admission.

A. Any prisoner involuntarily committed pursuant to § 53.1-40.2 shall have the right to appeal such order to the circuit court in the jurisdiction wherein the prisoner is located. The decision of the circuit court shall be final with no further right of appeal.

B. Such appeal must be filed within ten days from the date of the order and shall be given priority over all other pending matters before the court and heard as soon as possible, notwithstanding the provisions of § 19.2-241 providing time within which the court shall set criminal cases for trial. The clerk of the court from which an appeal is taken shall immediately transmit the record to the clerk of the circuit court.

C. No appeal bond or writ tax shall be required and the appeal shall proceed without the payment of costs or other fees. Costs may be recovered as provided for in § 53.1-40.8.

D. The appeal to the circuit court shall be heard de novo. An order continuing the commitment shall be entered only if the criteria in § 53.1-40.2 are met at the time the appeal is heard. The prisoner so committed shall be entitled to trial by jury. Seven persons from a panel of thirteen shall constitute a jury in such cases.

E. If such prisoner is not represented by counsel, the judge shall appoint an attorney to represent him. Counsel so appointed shall be paid a fee as provided in § 37.2-821. The order of the court from which the appeal is taken shall be defended by the attorney for the Commonwealth.

1988, c. 873; 1994, c. 211.

§ 53.1-40.5. Transfer of prisoner involuntarily admitted.

Whenever a prisoner is admitted to a hospital or facility for the care and treatment of individuals with mental illness, the Director may order the transfer of the prisoner to any other willing hospital or facility for the care and treatment of individuals with mental illness, and such other hospital or facility is authorized to admit such prisoner under the authority of the commitment order applicable to the hospital or facility from which such prisoner was transferred. No such transfer shall alter any right of a prisoner under the provisions of this article nor shall such transfer divest a judge or court, before which a hearing or request therefor is pending, of jurisdiction to conduct such hearing.

1988, c. 873; 2012, cc. 476, 507.

§ 53.1-40.6. Periodic review of prisoner for purposes of retention.

The director of a hospital or facility shall require a review of the progress of each prisoner admitted to such hospital or facility to be conducted at intervals of thirty days, sixty days, and ninety days after admission of such prisoner and every six months thereafter to determine whether such prisoner should be retained at such hospital or facility. A record shall be kept of the findings of each review in the hospital's or facility's file on such prisoner.

1988, c. 873.

§ 53.1-40.7. Discharge of prisoner involuntarily admitted.

A. The prisoner shall be discharged from a hospital or facility for the care and treatment of individuals with mental illness to a state or local correctional facility designated by the Director if there is no further need for involuntary hospitalization or at the expiration of 180 days unless involuntarily committed by further petition and order of a court as provided herein.

B. Notwithstanding the provisions of subsection A, if there is no further need for involuntary hospitalization, the prisoner may be retained in such hospital or facility if the prisoner (i) is capable of and consents to voluntary admission, and (ii) has been examined by a licensed physician, psychiatrist, or clinical psychologist acting on staff within his area of expertise and is determined to be in need of continued hospitalization.

1988, c. 873; 2005, c. 639; 2012, cc. 476, 507.

§ 53.1-40.8. Fees and expenses.

A. Any special justice, as defined in § 37.2-100, and any district court substitute judge who presides over hearings pursuant to the provisions of §§ 53.1-40.1 and 53.1-40.2 shall receive a fee as provided in § 37.2-804 for each commitment hearing under § 53.1-40.2 and each proceeding under § 53.1-40.1 ruling on competency or treatment and his necessary mileage. However, if the commitment hearing under § 53.1-40.2 and the proceeding under § 53.1-40.1 are combined for hearing or are heard on the same day, only one fee shall be allowed.

B. Every physician or clinical psychologist who is not regularly employed by the Commonwealth of Virginia who is required to serve as a witness for the Commonwealth in any proceeding under this article shall receive a fee as provided in § 37.2-804 for each commitment hearing in which he serves. Other witnesses regularly summoned before a judge under the provisions of this article shall receive such compensation for their attendance and mileage as is allowed witnesses summoned to testify before grand juries.

C. Every attorney appointed under this article shall receive a fee as provided in § 37.2-804 for each commitment hearing under § 53.1-40.2 and each proceeding under § 53.1-40.1 for which he is appointed. However, if the commitment hearing under § 53.1-40.2 and the proceeding under § 53.1-40.1 are combined for hearing or are heard on the same day, only one fee shall be allowed.

D. Except as hereinafter provided, all expenses incurred, including the fees, attendance, and mileage aforesaid, shall be paid by the Commonwealth. Any such fees, costs, and expenses incurred in connection with an examination or hearing for an admission pursuant to § 53.1-40.2 or in connection with a proceeding under § 53.1-40.1, when paid by the Commonwealth, shall be recoverable by the Commonwealth from the prisoner who is the subject of the examination, hearing, or proceeding or from his estate. Such collection or recovery may be undertaken by the Department. All such fees, costs, and expenses, if collected or recovered by the Department, shall be refunded to the Commonwealth. No such fees or costs shall be recovered, however, from the prisoner or his estate when no good cause for his admission exists or when the recovery would create an undue financial hardship.

1988, c. 873; 1990, c. 221; 2005, c. 716.

§ 53.1-40.9. Civil admission proceeding prior to release.

A prisoner whose release from the custody of the Department of Corrections is imminent and who may have a mental illness and be in need of hospitalization or treatment may be the subject of an involuntary admission proceeding under §§ 37.2-814 through 37.2-819 within 15 days prior to his anticipated release date, and any order entered in such proceedings shall be effective upon the release of the prisoner from the Department of Corrections. If a commitment hearing for involuntary admission under §§ 37.2-814 through 37.2-819 is combined for hearing or is heard on the same day with either a commitment hearing under § 53.1-40.2 or a proceeding under § 53.1-40.1, or both, only one fee shall

be allowed for the special justice or district court substitute judge conducting these proceedings and only one fee shall be allowed for the attorney representing the prisoner in these proceedings.

1990, c. 221; 2005, c. 716.

§ 53.1-40.10. Exchange of medical and mental health information and records.

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

1. The person in charge of the facility, or his designee, when such information and records are necessary (i) for the provision of health care to the person committed, (ii) to protect the health and safety of the person committed or other residents or staff of the facility, or (iii) to maintain the security and safety of the facility. Such information and records may be exchanged among administrative personnel for the facility in which the person is imprisoned as necessary to maintain the security and safety of the facility, its employees, or other prisoners. The information exchanged shall continue to be confidential and disclosure shall be limited to that necessary to ensure the security and safety of the facility.

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

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

4. Officials within the Department for the purpose of formulating recommendations for treatment and rehabilitative programs; classification, security and work assignments; and determining the necessity for medical, dental, and mental health care, treatment, and programs.

5. Medical and mental health hospitals and facilities, both public and private, including community services boards, for use in planning for and supervision of post-incarceration medical and mental health care, treatment, and programs.

6. The Department for Aging and Rehabilitative Services, the Department of Social Services, and any local department of social services in the Commonwealth for the purposes of reentry planning and post-incarceration placement and services.

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

C. The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the Department that govern confidentiality of such records. Medical and mental health information concerning a prisoner that has been exchanged pursuant to this section may be used only as provided herein and shall otherwise remain confidential and protected from disclosure.

D. The Department shall develop policies to improve the exchange of medical and mental health information and records of persons committed to a state correctional facility, including policies to improve access to electronic health records and electronic exchange of information and records for the provision of telemedicine and telepsychiatry.

1991, c. 597; 2013, cc. 164, 235; 2018, c. 165; 2019, cc. 202, 827.

Article 2.2 - Treatment and Control of Prisoners Known to Be Pregnant

§ 53.1-40.11. Definitions.

As used in this article, unless the context requires a different meaning:

"Postpartum recovery" means the eight-week period, or longer as determined by the health care professional responsible for the health and safety of the prisoner, following childbirth.

"Restraints" means any mechanical device, medication, physical intervention, or hands-on hold to prevent an individual from moving her body.

"Restrictive housing" means the same as that term is defined in § 53.1-39.1.

"Solitary confinement" means isolation of a prisoner from the general population through confinement to a cell or other place for 22 or more hours within a 24-hour period.

2020, c. 526.

§ 53.1-40.12. Treatment of prisoners known to be pregnant.

A. The following restraints shall not be used on any prisoner known to be pregnant upon notification or diagnosis of the pregnancy and for the duration of the pregnancy, unless there is an individualized determination that the prisoner will harm herself, the fetus, the newborn child, or any other person or poses a substantial flight risk: (i) leg restraints, (ii) handcuffs or other wrist restraints, except to restrain the prisoner's wrists in front of her, or (iii) restraints connected to other inmates. If there is an individualized determination that the prisoner will harm herself, the fetus, the newborn child, or any other person or poses a substantial flight risk and restraints are used, such restraints shall be the least restrictive possible.

B. No restraints shall be used on any prisoner known to be pregnant while in labor or during delivery unless there is an individualized determination that the prisoner will harm herself, the fetus, the newborn child, or any other person or poses a substantial flight risk. If there is an individualized determination that the prisoner will harm herself, the fetus, the newborn child, or any other person or poses a substantial flight risk and restraints are used, such restraints shall be the least restrictive possible. In such case, the employee ordering the use of restraints on any prisoner known to be pregnant while in labor or during delivery shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the use of restraints, containing the justification for restraining the prisoner.

C. No employee of the Department other than a licensed health care professional shall conduct body cavity searches of prisoners known to be pregnant unless the employee has a reasonable belief that the prisoner is concealing contraband. In such case, the employee shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the body cavity search, containing the justification for the search and what contraband was found, if any.

D. The Department shall not place any prisoner known to be pregnant in restrictive housing or solitary confinement unless an employee of the Department has a reasonable belief that the inmate will harm herself, the fetus, the newborn child, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing or solitary confinement shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing or solitary confinement.

E. The Department shall ensure that prisoners known to be pregnant are provided sufficient food and dietary supplements as ordered by a licensed physician or physician staff member to meet generally accepted prenatal nutritional guidelines for pregnant women.

F. The Department shall not assign any prisoner known to be pregnant to any bed that is elevated more than three feet from the floor of the facility.

2020, c. 526.

§ 53.1-40.13. Treatment of prisoners during postpartum recovery.

A. No restraints shall be used on any prisoner who is in postpartum recovery, unless an employee of the Department has a reasonable belief that the prisoner will harm herself, her newborn child, or any other person or poses a substantial flight risk. If there is a reasonable belief that the prisoner will harm herself, her newborn child, or any other person or poses a substantial flight risk and restraints are used, such restraints shall be the least restrictive possible. In such case, the employee ordering the use of restraints shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the use of restraints, containing justification for restraining the prisoner.

B. The Department shall not place any prisoner who has given birth in the past 30 days and is in postpartum recovery in restrictive housing or solitary confinement unless an employee of the Department has a reasonable belief that the inmate will harm herself, her newborn child, or any other person or poses a substantial flight risk. In such case, the employee authorizing the placement of the inmate in restrictive housing or solitary confinement shall submit a written report to the warden or other official in charge of the state correctional facility within 72 hours following the transfer, containing the justification for confining the prisoner in restrictive housing or solitary confinement.

C. Following the delivery of a newborn child by a prisoner, the Department shall permit the newborn child to remain with the mother for 72 hours unless a licensed medical or mental health care professional has a reasonable belief that the newborn child remaining with the mother poses a health or

safety risk to the newborn child. During the 72 hours, the Department shall make available the necessary nutritional and hygiene products to care for the newborn child, including diapers, and the necessary postpartum recovery products for the mother. If the prisoner qualifies as indigent, such products shall be provided without cost.

2020, c. 526.

§ 53.1-40.14. Reporting requirement.

The warden or other official in charge of a state correctional facility shall compile a monthly summary of all written reports received pursuant to §§ 53.1-25.1, 53.1-40.12, and 53.1-40.13 and shall submit the summary to the Director each month.

2020, c. 526.

§ 53.1-40.15. Training of correctional facility employees regarding pregnant inmates.

For correctional officers, and juvenile correctional officers who may have contact with pregnant inmates, the compulsory minimum entry-level training standards established pursuant to § 9.1-102 shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates.

2020, c. 526.

§ 53.1-40.16. Education for pregnant prisoners.

The Department shall provide, to the extent practicable, educational programming for prisoners known to be pregnant related to (i) prenatal care, (ii) pregnancy-specific hygiene, (iii) parenting skills, (iv) the impact of alcohol and drugs on the fetus, (v) postpartum recovery health, and (vi) the general health of children.

2020, c. 526.

Article 3 - EMPLOYMENT AND TRAINING OF PRISONERS

§ 53.1-41. Opportunities for work and career and technical education.

A. To the extent feasible, it shall be the duty of the Director to provide persons sentenced to the Department with opportunities to work and to participate in career and technical education programs. Such work opportunities may include business, industrial, agricultural, highway maintenance and construction, and work release programs as hereafter specified in this article. In addition, prisoners may be employed to improve, repair, work on or cultivate public property or buildings.

In addition to meeting the qualifications for work performance and security compatibility, preference for placement in work programs shall be given to any prisoner who requests a work assignment and assigns a minimum of 50 percent of his earnings to his child support obligation.

B. When a person committed to the Department owes any court imposed fines, costs, forfeitures, restitution or penalties, he shall be required as a condition of participating in any work program to either

make full payment or make payments in accordance with an agreed upon installment or deferred payment plan while participating in such work program. If, after the person enters into an installment or deferred payment agreement, the person fails to pay as agreed, his participation in the work program may be terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director shall withhold such payments from any amounts due to such person.

Code 1950, §§ 53-33, 53-57, 53-224; 1970, c. 648; 1982, c. 636; 2001, c. 483; 2006, c. 98; 2010, c. 616; 2012, cc. 803, 835.

§ 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 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 Director may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the 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.

Code 1950, § 53-220.1; 1970, c. 339; 1982, c. 636; 2020, c. 759.

§ 53.1-43. Pay incentives for prisoners.

The Director may 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.

Code 1950, § 53-222; 1968, c. 590; 1982, c. 636; 2020, c. 759.

§ 53.1-43.1. Inmate trust accounts.

In addition to any other account established to hold funds for inmates, the Department shall establish for each inmate a personal trust account. Unless an inmate has been sentenced to be executed, is serving a sentence of life without the possibility of parole, or is sentenced to a term that makes him ineligible for release, excluding the conditional release of geriatric prisoners pursuant to § 53.1-40.01, prior to 75 years of age, 10 percent of any funds received by an inmate from any source shall be deposited by the Department in the inmate's personal trust account until the account has a balance of $1,000. When the inmate's personal trust account reaches $1,000, any funds received by the inmate shall be deposited in the inmate's other account.

An inmate may direct the Department at any time to deposit a portion or all of any funds received by him in the inmate's personal trust account. After the balance of a personal trust account has exceeded $1,000, an inmate may direct the Department to transfer funds from his personal trust account to any

other account maintained for him; provided, however, that the balance of the personal trust account shall not fall below $1,000.

Funds in an inmate's personal trust account shall be paid to the inmate upon parole or final discharge.

2011, cc. 260, 284; 2017, c. 205.

§ 53.1-44. Investment of funds belonging to prisoners; use of income.

Portions of the funds held by the Director or by any state correctional facility, which belong to prisoners may, in the discretion of the Director, be invested in bonds of the Commonwealth of Virginia or of the United States or in federally-insured investments. In determining how to invest the funds, the Director shall balance any long-term investments with those which permit ready accessibility to the funds. Any income or increment of increase received from the bonds or investments may be used by the Director for the benefit of the prisoners under his care.

Code 1950, § 53-223; 1970, c. 648; 1982, c. 636.

§ 53.1-45. Sale of prison goods and services; print shop.

A. Articles produced or manufactured and services provided by prisoners sentenced to state correctional facilities may be disposed of by the Director by sale only to municipal and county agencies in Virginia and to federal, state and local public agencies within or without the Commonwealth or as the Director, with the approval of the Governor, may deem to be in the best interests of the Commonwealth. Except as otherwise provided, no articles produced or manufactured nor services provided by prisoners may be bought, sold or acquired by exchange on the open market.

B. The products of any printing shop in any state correctional facility shall be sold only to the departments, institutions and agencies of the Commonwealth which are supported in whole or in part with funds from the state treasury and to offices or agencies of the counties, cities and towns of the Commonwealth. Such products shall not be sold on the open market except as provided in § 53.1-45.1.

C. The Department shall not offer manufactured goods for resale to any department, agency or institution of the state unless those goods (i) have been incorporated into a finished product produced or manufactured by prisoners, (ii) are necessary for use with a product produced or manufactured by prisoners, or (iii) are a component part of a product system, a portion of which comprises goods produced or manufactured by prisoners.

Code 1950, §§ 53-63, 53-64; 1970, c. 648; 1977, c. 540; 1982, c. 636; 1983, c. 186; 1993, cc. 464, 488; 1998, c. 240.

§ 53.1-45.1. Work programs; agreements with other entities.

A. The Director, with the prior approval of the Governor, may enter into an agreement with a public or private entity to operate a work program in a state correctional facility for prisoners confined therein.

B. Articles produced or manufactured and services provided by prisoners participating in such a program may be purchased as provided in § 53.1-47 and may be bought, sold or acquired by exchange on the open market through the participating public or private entity.

C. The Director shall arrange for compensation for such employment. Wages earned by prisoners shall be paid to the Director who shall deduct from such wages, in the following order of priority, an amount 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 fines, restitution or costs as ordered by the court; and

3. Defray a portion of the prisoner's keep.

The balance shall be credited to the prisoner's account in accordance with § 53.1-42.

1993, cc. 464, 488; 1996, cc. 284, 368; 2003, cc. 94, 854.

§§ 53.1-45.2 through 53.1-45.5. Repealed.
Repealed by Acts 2003, cc. 94 and 854, cl. 2.

§ 53.1-46. Sale of artistic products.
Subject to such rules as he may prescribe, the Director may permit prisoners confined in state correctional facilities to sell to the public artistic products personally crafted by the prisoners. Such artistic products shall include, but are not limited to, paintings, pottery and leatherwork.

1982, c. 636.

§ 53.1-47. Purchases by agencies, localities, and certain nonprofit organizations.
Articles and services produced or manufactured by persons confined in state correctional facilities:

1. Shall be purchased by all departments, institutions, and agencies of the Commonwealth that are supported in whole or in part with funds from the state treasury for their use or the use of persons whom they assist financially. Except as provided in § 53.1-48, no such articles or services shall be purchased by any department, institution, or agency of the Commonwealth from any other source; and

2. May be purchased by any county, district of any county, city, or town and by any nonprofit organization, including volunteer emergency medical services agencies, fire departments, sheltered workshops, and community service organizations.

Code 1950, § 53-67; 1970, c. 648; 1972, c. 54; 1975, c. 647; 1980, c. 240; 1982, cc. 499, 636, 647; 1993, cc. 464, 488; 2015, cc. 502, 503.

§ 53.1-48. Exceptions as to purchases.
A department, institution, or agency of the Commonwealth may be granted an exemption from the provisions of § 53.1-47 with the written consent of the Chief Executive Officer of the Virginia Correctional Enterprises Program in any case where (i) the article so produced or manufactured does not meet the reasonable requirements of the department, institution, or agency, (ii) an identical article can be obtained at a verified lesser cost from the private sector, which is evidenced by a verified request for pricing, or (iii) the requisition made cannot be complied with on account of an insufficient supply of the articles or supplies required, or otherwise. In any case where an exemption from the provisions of §

53.1-47 is not granted as provided in this section, the Chief Executive Officer of the Virginia Correctional Enterprises Program shall provide a written justification for the denial to the department, institution, or agency that requested the exemption.

Code 1950, § 53-69; 1958, c. 124; 1982, cc. 499, 636; 1984, c. 720; 2012, c. 360; 2019, c. 167.

§ 53.1-49. Evasion by variance from specifications of Director.

No department, institution or agency of the Commonwealth shall be allowed to evade the intent and meaning of §§ 53.1-47 and 53.1-48 by slight variations from specifications adopted by the Division of Purchases and Supply of the Department of General Services pursuant to § 2.2-1112, when the articles produced or manufactured in accordance with specifications of the Department are reasonably adapted to the actual needs of the department, institution or agency.

Code 1950, § 53-70; 1982, cc. 636, 647.

§ 53.1-50. Vouchers, certificates and warrants not to be questioned.

No voucher, certificate or warrant issued on the Comptroller by any such department, institution or agency shall be questioned by him or by the State Treasurer on the ground that §§ 53.1-47 through 53.1-49 and § 53.1-52 have not been complied with by such department, institution or agency.

Code 1950, § 53-71; 1982, c. 636.

§ 53.1-51. Intentional violations constitute malfeasance.

Intentional violations of §§ 53.1-47 through 53.1-49 and § 53.1-52 by any such department, institution or agency, continued after notice from the Governor to desist, shall constitute malfeasance in office, and shall subject the officer or officers responsible for such violations to suspension or removal from office, as may be provided by law in other cases of malfeasance.

Code 1950, § 53-72; 1982, c. 636.

§ 53.1-52. Procedure for purchases.

All purchases, except for those of information technology and telecommunications goods and services as provided in § 2.2-2012, made by departments, institutions and agencies of the Commonwealth shall be made as provided by the Division of Purchases and Supply of the Department of General Services. All purchases of information technology and telecommunications made by departments, institutions, and agencies of the Commonwealth shall be made as provided by the Virginia Information Technologies Agency. All other purchases shall be upon requisition by the proper authority of the county, district, city or town requiring such articles.

Code 1950, § 53-68; 1958, c. 124; 1982, cc. 636, 647; 2003, cc. 895, 981, 1021.

§ 53.1-53. Transfer or sale of by-products of manufacturing processes.

In those industries operated by the Department in which saleable by-products are generated while producing primary products, such by-products shall not be classified as surplus supplies or equipment. Such by-products shall be disposed of as provided in § 2.2-1124. Proceeds from the sale of such by-

products shall be paid into the state treasury and credited to the special funds account of the generating industry.

1982, c. 636.

§ 53.1-54. Charges and catalogue; annual estimates of requirements by departments, etc.

A. The Director shall establish charges for articles produced or manufactured and services provided by prison labor that will, in his judgment, defray the administration, operation and maintenance costs and make allowances for depreciation, return on capital and contingencies.

B. A catalogue shall be prepared by the Department on a periodic basis which describes all articles and supplies manufactured and produced by persons confined in state correctional facilities. Copies of the catalogue shall be sent to all departments, institutions and agencies of the Commonwealth mandated to purchase such articles and supplies. At least thirty days before the commencement of each fiscal year, the proper official of each department, institution and agency of the Commonwealth shall report to the Division of Purchases and Supply estimates of the kinds and amounts of articles and supplies required by it for the ensuing year. Such estimates shall refer to the catalogue issued by the Director insofar as the articles and supplies indicated are included within the catalogue.

Code 1950, §§ 53-62, 53-73; 1958, c. 124; 1970, c. 648; 1982, c. 636.

§ 53.1-55. Sale or exchange of goods manufactured by prisoners of other states.

It shall be unlawful for any person within this Commonwealth to buy or acquire by exchange on the open market, either for his own use or for the purpose of resale, or for any person to sell or exchange on the open market within this Commonwealth, any goods, wares or merchandise prepared in whole or in part, or manufactured by prisoners of any other state, other than prisoners on parole or probation.

Any person or any agent or manager for any person who shall violate any provision of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not more than $500 or imprisonment for not more than one year, or both in the discretion of the court or jury trying the case.

Code 1950, § 53-74; 1982, c. 636.

§ 53.1-56. Construction and maintenance of highways; grass cutting; acquisition of quarries, etc.; use of materials for county roads.

Persons sentenced to the Department shall, so far as practicable, be employed in the construction and maintenance of the primary state highway system and secondary system of state highways, and to this end may be used in rock quarries, gravel pits and other plants in the preparation of materials for construction and maintenance of roads and in the maintenance of any or all medians and other non-traveled portions of such highways. Persons sentenced to the Department may also be employed in the maintenance of the rest areas along the Interstate Highway System, providing that such maintenance activities are jointly approved by the Department and the Virginia Department of Transportation based on the safety of the traveling public.

The Commonwealth Transportation Board may acquire out of the proceeds of the money, now or hereafter available for construction and maintenance of the primary state highway system and secondary system, such quarries, gravel pits or plants as may in its opinion be necessary for such work. The Board shall on the request of any county road authorities allow such county road authorities to take from such quarries or gravel pits or shall sell to such county road authorities at cost of production such materials as may be required to be used for the construction and maintenance of county roads. This arrangement shall in no way interfere with the furnishing of materials by the Board for the maintenance or construction of the primary state highway system and secondary system.

The Department of Transportation shall make requisition from time to time upon the Director for the number of prisoners it deems necessary for the work on the primary state highway system or secondary system or for the preparation of road material for road construction and maintenance, in the maintenance of any or all medians and other nontraveled portions of such highways, and in the maintenance of the rest areas along the Interstate Highway System. The number of prisoners so requisitioned shall be furnished subject to availability as determined by the Director of the Department of Corrections.

Fifteen days prior to a prisoner's participation in the program, the Director shall give the chief of police, sheriff or local chief law-enforcement official of the locality in which the prisoner will work, notice of the prisoner's participation. Such notice shall include the name, address and criminal history of the prisoner, in addition to other 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.).

Code 1950, § 53-109; 1970, c. 648; 1974, c. 128; 1982, c. 636; 1989, c. 652; 2010, c. 128; 2011, cc. 40, 48; 2013, cc. 585, 646.

§ 53.1-57. Payments by Department of Transportation to Director for labor.

The Department of Transportation shall pay to the Director monthly for the hours prisoners are employed on the state highway primary system and secondary system and work incidental thereto, an amount agreed upon by the Department of Corrections and the Department of Transportation. Monthly payments by the Department to the Director shall be made not later than the fifteenth day of the succeeding month after the work or labor has been performed for the Department.

Code 1950, § 53-71; 1958, c. 324; 1960, c. 450; 1970, c. 648; 1982, c. 636; 2013, cc. 585, 646.

§ 53.1-58. Highway employees as guards.

The Director, with the consent of the Commissioner of Highways, may appoint and authorize employees of the Department of Transportation to act as guards of prisoners when such prisoners are at work on the roads under the jurisdiction of the Commonwealth Transportation Board. Such employees shall be deemed to be acting within the scope of their official duties for the Board when acting as guards pursuant to this section. The Director may authorize such employees to carry firearms in accordance with § 53.1-29.

Code 1950, § 53-122; 1958, c. 572; 1970, c. 648; 1982, c. 636.

§ 53.1-59. Prisoners performing work for localities, state agencies or nonprofit civic organizations; payment of costs; foremen as guards.

The Director is authorized to enter into agreements with the proper authorities of any state agency, county, city, town, local commission or nonprofit civic organization in the Commonwealth to build and maintain roads and streets and to perform such other public works as he may approve. The state agency, county, town, city, local commission or nonprofit civic organization for which such work is performed may be required to pay to the Department in monthly installments such sum as is necessary to cover the costs of work done by such prisoners at the rate specified in the agreement authorized by § 53.1-57.

The state agency, county, town, city, local commission or nonprofit civic organization that has the use of prison labor authorized by this section shall designate the projects to be worked. It may be required to furnish all engineering service, tools, implements, machinery and equipment used in such projects; shall secure rights-of-way; and shall furnish such foremen as the Director deems necessary and acceptable to direct the work. The Director may authorize such persons employed as foremen to carry firearms in accordance with § 53.1-29.

Fifteen days prior to a prisoner's participation in the program, the Director shall give the chief of police, sheriff or local chief law-enforcement official of the locality in which the prisoner will work, written notice of the prisoner's participation. Such notice shall include the name, address and criminal history of the prisoner in addition to other information the chief of police or such officer may request. A copy of such notice shall be provided to the attorney for the Commonwealth and the governing body where the work is to be performed. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). When notice has been requested in accordance with § 53.1-133.02, the Director shall provide notice to the victim that the prisoner has been assigned to a facility where the prisoner may participate in supervised work programs established pursuant to this section.

Code 1950, § 53-122.1; 1962, c. 370; 1970, c. 648; 1982, c. 636; 1989, c. 652; 1991, c. 412; 1996, cc. 703, 726.

§ 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.

A. The Director is authorized to establish work release programs whereby (i) a prisoner who is proficient in any trade or occupation and whom the Director is satisfied is trustworthy, may be approved for employment by private individuals, corporations or state agencies at places of business, or (ii) a prisoner whom the Director is satisfied is trustworthy and capable of receiving substantial benefit from educational and other related community activity programs that are not available within a state correctional facility may attend such programs outside of the correctional facility, without a correctional officer during any hour of the day or night. Such prisoner shall travel directly to, from or be in author-

ized attendance or employment at such place of business, educational or related community activity program.

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

C. The compensation for such employment shall be arranged by the Director and shall be the same as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The Director shall, in accordance with regulations promulgated by the Director, deduct from such wages, in the following order of priority, an amount 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 fines, restitution or costs as ordered by the court;

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

4. Defray the prisoner's keep.

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

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

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

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

Code 1950, § 53-38; 1968, c. 152; 1970, c. 114; 1972, c. 55; 1973, c. 114; 1975, c. 322; 1976, cc. 295, 475; 1978, c. 660; 1979, cc. 127, 706; 1981, c. 634; 1982, c. 636; 1984, c. 516; 1985, c. 488; 1988, c. 397; 1990, cc. 107, 676, 768; 1994, c. 487; 2020, c. 759.

§ 53.1-60.1. Duties of Director in collecting court-imposed debt.

Upon receipt of a valid court order or judgment against a person confined in a state correctional facility, the Director or his designee shall satisfy, to the extent possible, the amount required to be paid by the order or judgment from the inmate's trust account. The Director shall promulgate regulations governing the process of collecting funds from inmates to be used for (i) the satisfaction of judgments or orders granting monetary relief or imposing fines or other monetary sanctions or (ii) payment of court costs and fees.

1998, c. 596.

§ 53.1-61. Determination whether prisoner has dependents receiving public assistance; payment of portion of earnings; remedies for enforcement of support obligation.

A. In order to determine whether a prisoner to be released for employment as provided in § 53.1-60 has dependents receiving public assistance benefits, the Director may require such person to reveal the identity and residence of any dependents as a condition to release. The Director shall notify any such dependents, the local department of social services where such dependents reside and the Commissioner of Social Services of the release of such person for employment. Upon request of the local department of social services or the Commissioner of Social Services, the Director shall withhold and pay over a portion of the person's earnings as provided in § 53.1-60.

B. If the local department of social services or the Commissioner of Social Services objects to the amount withheld by the Director, the balance credited to the person's account shall be subject to all civil remedies provided by law to the local department of social services or the Commissioner of Social Services for the enforcement of support of dependents receiving public assistance benefits.

C. The director of the local department of social services and the Commissioner of Social Services or their designees shall be permitted access to the records of the Director concerning the earnings of the prisoner.

Code 1950, § 53-38.01; 1978, c. 660; 1982, c. 636; 2002, c. 747.

§ 53.1-62. When ineligible for work release.

Any person who is released from confinement for work release employment pursuant to the provisions of § 53.1-60, who is convicted of a felony included within Chapter 4 (§ 18.2-30 et seq.) of Title 18.2, or arson, burglary or robbery committed while so released, shall, after such conviction, be ineligible for work release employment during the remainder of the sentence or sentences imposed upon him prior to his release for work release employment.

Code 1950, § 53-38.1; 1976, c. 210; 1982, c. 636.

Article 4 - State Facilities for Youthful Offenders

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

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

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

Code 1950, § 53-128.1; 1966, c. 482; 1974, cc. 44, 45; 1982, c. 636; 1990, c. 701; 2000, cc. 668, 690; 2001, c. 483; 2020, c. 759.

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

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

1996, cc. 755, 914; 2012, cc. 803, 835; 2020, c. 759.

§ 53.1-64. Programs and facilities.

The Department shall establish and maintain within each facility programs for counseling and education, including career and technical education; buildings sufficient to ensure the secure confinement of persons admitted to the facility; and programs in at least one such facility for the study, testing and diagnosis of the following persons:

1. Persons committed to the Department for diagnosis and evaluation under the provisions of § 19.2-316 for a determination as to the likelihood of their benefitting from the program of such facility; and

2. Persons confined in the state corrections system under the indeterminate period of commitment authorized by Article 2 (§ 19.2-311 et seq.) of Chapter 18 of Title 19.2, to evaluate their progress periodically and to determine their readiness for release.

Code 1950, § 53-128.2; 1966, c. 482; 1982, c. 636; 1990, c. 701; 2001, c. 483.

§ 53.1-65. Consideration of report developed at diagnostic facilities.

The Department shall give careful consideration to the report developed at the diagnostic facilities established under § 53.1-64 in determining whether persons committed to it under the provisions of § 19.2-311 et seq., are to be confined at a youthful offender facility or elsewhere in the state corrections system.

Code 1950, § 53-128.3; 1966, c. 482; 1982, c. 636.

§ 53.1-66. Transfer of prisoners to other facilities.

Any person confined by the Department in a facility established by this chapter may be transferred from such facility to other facilities in the state corrections system for the remainder of the period of commitment under § 16.1-272 or Article 2 (§ 19.2-311 et seq.) of Chapter 18 of Title 19.2, upon a written finding by the Department submitted to the sentencing court that the person has exhibited intractable behavior or, in the case of persons committed under § 19.2-311, otherwise becomes ineligible to use such facilities pursuant to § 19.2-311.

"Intractable behavior" means behavior which (i) indicates an inmate's unwillingness or inability to conform his behavior to that necessary to his successful completion of the program or (ii) is so disruptive as to threaten the successful completion of the program by other participants.

Code 1950, § 53-128.4; 1966, c. 482; 1982, c. 636; 1990, c. 701; 1996, cc. 755, 914.

§ 53.1-67. Admission to facility; good conduct allowance restricted.

In no case shall a person previously confined in a youthful offender facility, whether for a different or the same offense, be confined again in such a facility, except for the purposes of study, testing and diagnosis.

The provisions of §§ 53.1-191, 53.1-196, and 53.1-198 through 53.1-201 relating to good conduct credits and allowances and extraordinary service and the provisions of § 53.1-187 relating to credit for time served in a correctional facility or juvenile detention facility shall not apply to persons sentenced to an indeterminate sentence under § 19.2-311 for a crime committed on or after July 1, 1983. Acts performed by such persons which would earn credit for them under § 53.1-191, if it were applicable, shall be noted on their record by the authorities of the facility.

Code 1950, § 53-128.5; 1966, c. 482; 1982, c. 636; 1983, c. 606; 1984, c. 313; 1990, c. 701.

Article 5 - Boot Camp Incarceration Program

§ 53.1-67.1. Repealed.

Repealed by Acts 2019, c. 618, cl. 2

Article 6 - STATEWIDE COMMUNITY-BASED CORRECTIONS SYSTEM FOR STATE-RESPONSIBLE OFFENDERS

§ 53.1-67.2. Purpose.

The purposes of this article are to (i) provide effective protection of society and (ii) provide efficient and economical correctional services by establishing and maintaining appropriate sanction alternatives

and by assisting state-responsible offenders who are incarcerated in returning to society as productive citizens, with the goal of reducing the incidence of repeat offenders.

1994, 2nd Sp. Sess., cc. 1, 2.

§ 53.1-67.3. Establishment of system.

The Director shall establish a statewide community-based system of programs, services and residential and nonresidential facilities for (i) those state-responsible offenders convicted of felonies and sentenced to alternative forms of punishment and (ii) those state-responsible offenders who the Director has determined, after a period of incarceration in a state or local correctional facility, require less secure confinement or a lower level of supervision. Facilities established pursuant to this article may be partially or completely physically restrictive with varying levels and types of offender control.

1994, 2nd Sp. Sess., cc. 1, 2.

§ 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 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.

1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 2006, c. 187; 2020, c. 759.

§ 53.1-67.5. Director to prescribe standards.

The Director shall prescribe standards for the development, implementation, operation, and evaluation of programs, services and facilities authorized by this article. The 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.

1994, 2nd Sp. Sess., cc. 1, 2; 2020, c. 759.

§ 53.1-67.6. Minimum programs.

The Statewide Community-Based Corrections System shall include, but not be limited to, the following programs, services and facilities: regular and intensive probation supervision, regular and intensive parole supervision for those state-responsible offenders sentenced for an offense committed prior to January 1, 1995, home/electronic incarceration, community corrections alternative programs, work release, pre-release centers, probation-violator and parole-violator centers, halfway houses and, for selected offenders, drug testing and treatment. The programs, facilities, and services required

under this article shall be made available to each judicial circuit, but the manner in which such are provided shall be determined by the Director. Additional programs, services, and facilities may be established by the Director.

1994, 2nd Sp. Sess., cc. 1, 2; 2019, c. 618.

Article 7 - Diversion Center Incarceration Program

§ 53.1-67.7. Repealed.

Repealed by Acts 2019, c. 618, cl. 2

Article 8 - Detention Center Incarceration Program

§ 53.1-67.8. Repealed.

Repealed by Acts 2019, c. 618, cl. 2

Article 9 - Community Corrections Alternative Program

§ 53.1-67.9. Establishment of community corrections alternative program; supervision upon completion.

The Department is authorized to establish and maintain a system of residential community corrections alternative facilities for probationers and parolees whose identified risks and needs cannot be addressed by conventional probation or parole supervision and who are committed to the Department under § 19.2-316.4. The program shall include components for providing access to counseling, substance abuse testing and treatment, remedial education, and career and occupational assessment; providing assistance in securing and maintaining employment; ensuring compliance with terms and conditions of probation or parole; ensuring restitution and performance of community service; payment of fines, if any, and costs of court; and providing other programs that will assist the probationer or parolee in returning to society as a productive citizen. The Department shall perform risk and needs assessments to establish a case plan for each probationer or parolee determining the appropriate program components and program duration for that probationer or parolee.

Upon completion of the program, the probationer or parolee shall be released from confinement and remain on probation or parole for a period of one year or for such other longer period as may be specified by the sentencing court or Parole Board. As a condition of such probation or parole following the community corrections alternative component, a probationer's or parolee's successful participation in employment, career and technical education, or other educational or treatment programs may be required.

Probation officers assigned to the program shall be authorized by the judges of the circuit court of the county or city in which the position is assigned. Any officer so appointed shall have the same powers and duties as specified in § 53.1-145, and such appointment shall be valid in any judicial circuit in the Commonwealth.

2019, c. 618.

Chapter 3 - LOCAL CORRECTIONAL FACILITIES

Article 1 - Establishment and Regulation of Facilities

§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections, behavioral health services inspections, and personnel.

A. The Board shall establish minimum standards for the construction, equipment, administration, and operation of local correctional facilities, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards. The Board or its agents shall conduct at least one unannounced inspection of each local facility annually. However, in those years in which a certification audit of a facility is performed and the facility is in compliance with all the standards, the Board may elect to suspend the unannounced inspection based upon that certification audit and the history of compliance of the facility with the standards promulgated in accordance with this section, except in any year in which there is a change in the administration of a local or regional jail. The Board shall also establish minimum standards for the construction, equipment, and operation of lock-ups, whether heretofore or hereafter established. However, no minimum standard shall be established that includes square footage requirements in excess of accepted national standards.

B. Standards concerning sanitation in local correctional facilities and procedures for enforcing these standards shall be promulgated by the Board with the advice and guidance of the State Health Commissioner. The Board, in conjunction with the Board of Health, shall establish a procedure for the conduct of at least one unannounced annual health inspection by the State Health Commissioner or his agents of each local correctional facility. The Board and the State Health Commissioner may authorize such other announced or unannounced inspections as they consider appropriate.

C. The Board shall establish minimum standards for behavioral health services in local 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 the State Inspector General.

Such standards shall include:

1. Requirements for behavioral health services provided in jails, including requirements for behavioral health screening and assessment of individuals committed to local correctional facilities and the provision of behavioral health services in local correctional facilities, as well as regulations directing the sharing of medical and mental health information and records in accordance with § 53.1-133.03;

2. Requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from the local correctional facility, which shall include (i) creation of a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1, and (ii) coordination of services and care with community providers, community supervision agencies, and, as appropriate, the individual's family in accordance with the discharge plan until such time as the individual has begun to receive services in accordance with the discharge

plan or for a period of 30 days following release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to the full continuum of care for the individual upon release from the local correctional facility and shall include provisions for (a) linking the individual for whom the discharge plan has been prepared to the community services board in the jurisdiction in which he will reside following release and to other supports and services necessary to meet his service needs and (b) communication of information regarding the individual's treatment needs and exchange of treatment records among service providers;

3. A requirement for at least one unannounced annual inspection of each local correctional facility by the Board or its agents to determine compliance with the standards for behavioral health services established pursuant to this subsection and such other announced or unannounced inspections as the Board may deem necessary to ensure compliance with the standards for behavioral health services established pursuant to this subsection; and

4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by and payment by such sheriff or superintendent to a community services board that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

D. The Department of Criminal Justice Services, in accordance with § 9.1-102, shall establish minimum training standards for persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120 and for persons employed as jail officers or custodial officers under the provisions of this title. The sheriff shall establish minimum performance standards and management practices to govern the employees for whom the sheriff is responsible.

E. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

Code 1950, § 53-133; 1982, c. 636; 1991, c. 383; 1992, c. 179; 1994, c. 861; 1995, c. 797; 1997, c. 644; 2000, c. 256; 2019, c. 827.

§ 53.1-69. Board may prohibit confinement and require transfer of prisoners in substandard facilities.

The Board is authorized to limit, by its order, the confinement of prisoners in any local correctional facility or lock-up, which is not constructed, equipped, maintained and operated so as to comply with minimum standards prescribed by the Board, either by prohibiting confinement of any prisoners in such local correctional facility or lock-up, or by limiting the maximum number of prisoners to be confined therein, as the Board deems appropriate. The Board may designate some other local correctional facility or lock-up in or at which shall be confined persons who otherwise would have been confined in the facility subject to the Board's order. Copies of each order shall, upon being issued, be sent to the officer in charge of the facilities affected, to the governing bodies of the counties, cities and towns affected and to the judge of the circuit court of each county and city in which are located the local correctional facilities or lock-ups affected.

Code 1950, § 53-134; 1981, c. 487; 1982, c. 636.

§ 53.1-69.1. Review of death of inmates in local correctional facilities.

A. The Board shall have the power to review the death of any inmate who was incarcerated in a local correctional facility at the time of his death in order to determine (i) the circumstances surrounding the inmate's death, including identifying any act or omission by the facility or any employee or agent thereof that may have directly or indirectly contributed to the inmate's death, and (ii) whether the facility was in compliance with the regulations promulgated by the Board.

B. Any review conducted pursuant to this section shall be conducted in accordance with the policies and procedures for such review developed and implemented by the Board in accordance with subdivision 5 of § 53.1-5. In conducting a review pursuant to this section, the Board may exercise its power under § 53.1-6 to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder. If the Board determines that it cannot adequately conduct any particular review pursuant to this section because of the conduct by the Board of another ongoing review, the Board may request that the Department assist in the conduct of such review. Department staff conducting a review pursuant to this section shall be considered agents of the Board.

C. If the Board determines during the conduct of any review pursuant to this section that it is necessary to review the operation of an entity other than the local correctional facility in order to complete the review, the Board shall request that the Office of the State Inspector General review the operation of such entity if such entity falls within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2. Nothing in this section shall limit the authority of the Office of the State Inspector General to exercise any of the powers and duties set forth in Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2.

D. Upon completion of any review conducted pursuant to this section, the Board shall prepare a detailed report of the findings of any review, which shall be submitted to the Governor, the Speaker of the House of Delegates, and the President pro tempore of the Senate. Such report may contain recommendations for changes to the minimum standards for the construction, equipment, administration, and operation of local correctional facilities in order to prevent problems, abuses, and deficiencies in and improve the effectiveness of such facilities. In addition, the Board may issue any order authorized under § 53.1-69 to correct any failure by the facility to comply with the Board's regulations. Except as otherwise required by law, the Board shall maintain the confidentiality of any confidential records or information obtained from a facility during the course of a review in accordance with state and federal law.

E. The Board shall publish an annual report summarizing the reviews conducted by the Board within that year. Such report shall include any trends or similarities among the deaths of inmates in local correctional facilities and present recommendations on policy changes to reduce the number of deaths in local correctional facilities. The Board shall publish such report on its website and submit the report to the Governor, the Chairmen of the Senate Committee on Rehabilitation and Social Services and the

House Committee on Public Safety, the Chair of the House Committee for Courts of Justice, the Speaker of the House of Delegates, and the President pro tempore of the Senate.

2017, c. 759; 2020, c. 1287.

§ 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.).

2020, c. 759.

§ 53.1-70. Jurisdiction of court to enforce orders of Board; proceedings.

Any circuit court in any county or city which maintains and operates any local correctional facility or lock-up, or in any county in which is situated any town which maintains and operates any local correctional facility or lock-up, affected by any such order of the Board, shall have jurisdiction to enforce such order by an injunction or other appropriate remedy at the suit of the Board. In the City of Richmond such jurisdiction shall be vested in the Circuit Court, Division I. Such proceeding shall be commenced by a petition of the Board in the name of the Commonwealth and shall, insofar as possible, conform to rules of procedure applicable to a civil action. The governing body of each county, city or town which maintains and operates any local correctional facility or lock-up affected by the order of the Board, and the officer in charge of each such facility, shall be made parties defendant. In every such proceeding the court shall hear all relevant evidence, including evidence with regard to the condition of the local correctional facility or lock-up and any other evidence bearing upon the propriety of the Board's action. The court may refuse to grant the injunction if it appears that the action of the Board was not warranted.

Code 1950, § 53-135; 1982, c. 636; 2005, c. 681.

§ 53.1-70.1. Transport of prisoners; authority.

A. The sheriff or administrator in charge of a local or regional correctional facility where a prisoner is incarcerated and employees of such facility acting on the direction of such sheriff or administrator shall have the authority to transport the prisoner to another jurisdiction inside the Commonwealth for any lawful purpose and to retain authority over such prisoner.

B. Any person authorized to transport a prisoner under subsection A who has the need to travel with a prisoner through or to another state is authorized to travel through or to such state and retain authority over such prisoner as allowed by such state.

2016, c. 579.

§ 53.1-71. Courts to order jails erected and repaired.

When it shall appear to the circuit court of any county or city that there is no jail therein or that the jail of such county or city is insecure, out of repair or otherwise inadequate, it shall be the duty of such court to award a rule in the name of the Commonwealth against the governing body of the county or city to show cause why a writ of mandamus should not issue commanding the governing body to erect a jail for the county or city, or to cause the existing jail of such county or city to be made secure, put in good repair, or rendered otherwise adequate, as the case may be.

Code 1950, § 53-129; 1982, c. 636.

Article 1.1 - PRIVATE OPERATION OF REGIONAL JAIL FACILITIES

§ 53.1-71.1. Private construction, operation, etc., of regional jail facility.

A. Any regional jail authority constituted pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or 5 (§ 53.1-105 et seq.) of Chapter 3 of Title 53.1 may contract with a private entity for the financing, site selection, acquisition, construction, maintenance, leasing, management, or operation of a regional jail facility.

B. Any project authorized pursuant to subsection A of this section shall be subject to the requirements and limitations set out below:

1. Contracts entered into under the terms of this article 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 jail management projects;

c. Evidence of past performance of similar contracts; 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 article, 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 expenditure of funds by the local governing bodies.

3. No contract for correctional services shall be entered into which would adversely affect the tax-exempt status of obligations issued or to be issued to finance the facility, and 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 combination of counties or cities and public officials from all claims and losses incurred as a result of the contract. The indemnification plan shall include liability insurance in limits of not less than five million dollars. Nothing herein is intended to deprive a regional jail facility contractor or the combination of counties or cities of the benefits of any law limiting exposure to liability or setting a limit on damages.

4. No contract for correctional services shall be executed unless:

a. The proposed contract has been reviewed and approved by the Board;

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 a regional jail facility to similar types of inmates; and

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

1994, c. 715.

§ 53.1-71.2. Authority of security employees.

Security employees of a regional jail facility contractor shall be allowed to use force and shall exercise their powers and authority only while on the grounds of a regional jail facility under the supervision of the regional jail facility contractor, while transporting inmates, and while pursuing escapees from such facilities until such time that the pursuit of the escapees is assumed by state or local law-enforcement agencies. All provisions of law pertaining to custodians of inmates or jail guards or officers shall apply to contractors' security employees.

1994, c. 715.

§ 53.1-71.3. Application of certain criminal laws to contractor-operated facilities.

All provisions of law establishing penalties for offenses committed against custodians of inmates or jail guards or officers shall apply mutatis mutandis to offenses committed by or with regard to inmates assigned to facilities or programs for which a regional jail facility contractor is providing correctional services.

1994, c. 715.

§ 53.1-71.4. Powers and duties not delegable to contractor.

The regional jail authority issuing the contract shall retain the authority and responsibility for the rules and procedures as they apply to the treatment of prisoners, and no contract for correctional services shall authorize, allow, or imply a delegation of authority or responsibility to a regional jail facility contractor for any of the following:

1. Developing and implementing procedures for calculating inmate release dates;

2. Developing and implementing procedures for calculating and awarding sentence credits;

3. Approving inmates for furlough and work release;

4. Approving the type of work inmates may perform and the wages or sentence credits which may be given the inmates engaging in such work;

5. Granting, denying, or revoking sentence credits;

6. Classifying inmates or placing inmates in less restrictive custody or more restrictive custody;

7. Transferring an inmate; however, the contractor may make written recommendations regarding the transfer of an inmate or inmates;

8. Formulating rules of inmate behavior, violations of which may subject inmates to sanctions; however, the contractor may propose such rules for review and adoption, rejection, or modification as otherwise provided by law or regulation; and

9. Disciplining inmates in any manner which requires a discretionary application of rules of inmate behavior or a discretionary imposition of a sanction for violations of such rules.

1994, c. 715.

§ 53.1-71.5. Board to promulgate regulations.

The Board shall make, adopt and promulgate regulations governing the following aspects of private management and operation of regional jail facilities:

1. Minimum standards for the construction, equipment, administration and operation of the facilities; however, the standards shall be at least as stringent as those established for local correctional facilities;

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

3. Use of deadly and nondeadly force by regional jail facility contractors' security personnel;

4. Methods of monitoring a contractor-operated facility by an appropriate state or local governmental entity or entities;

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

6. Such other regulations as may be necessary to carry out the provisions of this article.

1994, c. 715.

§ 53.1-71.6. State reimbursement to localities.

A. Reimbursement to participating localities for the cost of construction shall be made pursuant to Article 3 (§ 53.1-80 et seq.) of Chapter 3 of Title 53.1.

B. The manner of state payment to the localities for the care and custody costs at the facility of persons accused or convicted of any offense against the laws of the Commonwealth shall be as provided in

the general appropriation act. Such payments shall include only the reasonable costs of guarding and providing necessary housing, maintenance, administrative expenses, food, clothing, medicine and medical attention for such prisoners. However, in no event shall the payment to the localities, when calculated on a per diem per prisoner basis, exceed the total cost ordinarily paid by the Commonwealth to a locality for prisoner care and custody expenses, when calculated on a per diem per prisoner basis.

1994, c. 715.

Article 2 - UTILIZATION OF JAILS

§ 53.1-72. Jails of counties and cities to be jails of courts therein.

The jail of each county and city shall be the jail of every court established therein by law.

Code 1950, § 53-137; 1982, c. 636.

§ 53.1-73. When jail of county to be jail for town.

Every town shall have the use of the jail of the county in which such town is located, to aid the constituted authorities of any such town in maintaining peace and good order, and generally for the enforcement of its ordinances, unless for good cause the judge of the circuit court of such county shall prohibit such use.

Code 1950, § 53-138; 1972, c. 573; 1982, c. 636.

§ 53.1-74. When court may adopt jail of another county or city.

When a county or city is without an adequate jail, or its jail is to be removed, rebuilt or repaired, the circuit court thereof shall adopt as its jail the jail of another county or city until it can obtain an adequate jail. All persons committed or ordered committed to the jail of the first mentioned county or city, at or after such adoption and before an adequate jail be so obtained, shall be conveyed to the jail so adopted.

Code 1950, § 53-139; 1982, c. 636.

§ 53.1-75. Procedure after adoption.

The keeper of any jail so adopted for a county or city so designated shall, as to the person so conveyed to such jail, be deemed the jailer of such county or city, until the court thereof shall declare its own jail to be adequate. Thereafter, such persons shall be delivered to the sheriff of such county or city who shall convey them to the jail kept by the sheriff or jail superintendent.

Code 1950, § 53-141; 1982, c. 636; 1991, c. 383.

§ 53.1-76. Commitment to jail of another county or city; payment of costs, etc.

In any case should it become necessary or expedient for the safekeeping of any prisoner, or for good cause, a circuit court may commit such prisoner to a jail other than that located in its county or city. The keeper of the jail in making his account for the board of such prisoner shall include the prisoner in such account, as if the prisoner had actually been committed from his county or city. The authorities of

the county or city from which the prisoner is sent shall be responsible for any damage done by him to the jail of the county or city in which such prisoner may be confined.

Code 1950, § 53-142; 1960, c. 376; 1982, c. 636; 1985, c. 321.

§ 53.1-77. Jurisdiction of judge or magistrate of adopting county or city authorized to issue temporary detention orders.

When the jail of any other county or city has been adopted or designated under the provisions of §§ 53.1-74 and 53.1-76, any judge or magistrate authorized to issue temporary detention orders pursuant to §§ 37.2-809 through 37.2-813 of the adopting county or city shall have concurrent jurisdiction with those of the county or city wherein the adopted or designated jail is located, in proceedings under Chapter 8 (§ 37.2-800 et seq.) of Title 37.2, with respect to such persons as have been involuntarily admitted there from the adopting county or city. Such judge or magistrate may perform any such act or duty at such place as if such person was involuntarily admitted within the jurisdiction of the adopting county or city.

Code 1950, § 53-142.1; 1952, c. 264; 1970, c. 648; 1982, c. 636; 2005, c. 716.

§ 53.1-78. Jail for Supreme Court.

The jail of any county or city in which the Supreme Court or Court of Appeals or a panel thereof is sitting, may be used as a jail for such court.

Code 1950, § 53-143; 1982, c. 636; 1984, c. 703.

§ 53.1-79. Jails for United States prisoners; payment by United States.

The sheriff of any county or city or jail superintendent of any regional jail may receive into his jail any person committed thereto under the authority of the United States, and keep him safely according to the warrant or precept of commitment, until he shall be discharged under the laws of the United States. But no person arrested on civil process shall, under this section, be committed to any jail other than that of the county or city within which such person resides or is found.

The county or city or regional jail authority or, if none, the body responsible for the fiscal management of the regional jail shall be paid by the United States for the support of any such prisoner.

Code 1950, § 53-145; 1970, c. 648; 1982, c. 636; 1991, c. 383.

§ 53.1-79.1. Agreements to transfer, transport, and confine prisoners.

The sheriff or superintendent of any jail may enter into an agreement with the sheriff or superintendent of any other jail in the Commonwealth to transfer and transport prisoners between the respective facilities, and to confine such prisoners, unless such transfer is otherwise prohibited by law.

1991, c. 192.

Article 3 - FUNDING LOCAL CORRECTIONAL FACILITIES AND PROGRAMS

§ 53.1-80. State reimbursement of localities for construction.

A. On and after July 1, 1993, the Commonwealth shall reimburse any city or county up to one-fourth of the capital costs of a jail construction, enlargement or renovation project upon a basis approved by the Board in accordance with the provisions of this section. On and after July 1, 1993, (i) any three or more cities or counties, or any combination thereof, which do not qualify for reimbursement pursuant to § 53.1-81 or § 53.1-82 and (ii) any two cities or counties or any combination of a city and a county which jointly construct, enlarge or renovate a jail upon a basis approved by the Board in accordance with the provisions of this section shall be reimbursed by the Commonwealth on a pro rata basis up to one-fourth of the capital costs, as defined in § 53.1-82.2, of such project. The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Reimbursements shall be paid subject to the provisions of § 53.1-82.2.

No (i) project to construct, enlarge, or renovate a jail or regional jail facility or to enlarge or renovate an existing jail that was not approved by the Governor prior to July 1, 2015, or (ii) project that is not an enlargement or renovation of a regional jail created prior to July 1, 2015, shall be eligible for reimbursement from the Commonwealth unless such project has been specifically authorized in the general appropriation act.

B. In the event that a county or city requests and receives financial assistance for capital costs of such jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this law, the total financial assistance and reimbursement shall not exceed the total cost of the project.

Code 1950, § 53-133.1; 1968, c. 304; 1970, cc. 252, 373; 1973, c. 233; 1981, c. 380; 1982, c. 636; 1983, c. 358; 1989, c. 423; 1993, cc. 387, 787; 1995, c. 305; 2015, c. 749.

§ 53.1-81. Construction and operation of regional jail facilities; state reimbursement; agreements with Department.

A. Three or more cities or counties, or any combination thereof, are authorized, pursuant to approval of the Board, to construct, enlarge or renovate a regional jail facility or to enlarge or renovate an existing jail for the purpose of establishing a regional jail facility. In addition, (i) any regional jail facilities established by three or more cities, counties or towns, or any combination thereof, on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. On and after December 1, 1989, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata

share up to one-half of the capital costs, as defined in § 53.1-82.2, of such construction, enlargement or renovation in accordance with the provisions of this section if the project was approved by the Governor prior to July 1, 2015, or the project is an enlargement or renovation of a regional jail facility created prior to July 1, 2015, and shall reimburse each such locality its pro rata share up to one-fourth of such capital costs if such project is approved by the Governor on or after July 1, 2015, and has been specifically authorized in the general appropriation act. On or after July 1, 2017, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata share up to one-fourth of the capital costs, as defined in § 53.1-82.2, for any construction, enlargement or renovation project in accordance with the provisions of this section if such project is approved by the Governor on or after July 1, 2017, and has been specifically authorized in the general appropriation act. However, regional jails created by any combination of three or more cities or counties on or after February 1, 1993, shall not be eligible for such reimbursement unless at least three of the participating localities of such combination were each operating a jail on February 1, 1993. The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

Such counties, cities, towns, or combination thereof may enter into agreements with the Department of Corrections for the Department to operate such jail or to pay the costs of maintenance, upkeep and other operational costs of the jail. Each city, county or town shall, however, bear the expense of local prisoners from such city, county or town. In such case, the Department shall receive such costs from the funds appropriated in the general appropriation act for criminal costs. The method of operation by the Department shall be in the manner it prescribes, notwithstanding any other provision of law designating sheriffs as the keepers of jails.

In lieu of an agreement by the localities with the Board for construction or operation of jail facilities, the Board may agree to sell land owned by the Commonwealth to the localities. The Governor is hereby authorized, at his discretion and upon the advice of the Board, to execute a conveyance of such land in a form approved by the Attorney General.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of such jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

Code 1950, § 53-133.2; 1970, c. 419; 1972, c. 573; 1974, cc. 44, 45; 1981, c. 380; 1982, c. 636; 1983, c. 358; 1989, c. 423; 1993, cc. 387, 787; 1995, c. 305; 2015, c. 749; 2017, c. 211.

§ 53.1-82. Regional contracts for cooperative jailing of offenders; state reimbursement.

A. Three or more counties or cities, or any combination thereof, are authorized to contract for services for the detention and confinement of categories of offenders in single or regional jail facilities operated by the contracting jurisdictions. In addition, (i) any three or more counties, cities or towns, or any combination thereof, operating a jail facility pursuant to an agreement for cooperative jailing established on or before January 31, 1993, (ii) any existing regional jail facilities established by only two cities, counties, or towns on or before June 30, 1982, and (iii) any regional jail facilities established by only two contiguous counties whose boundaries are not contiguous by land with the boundaries of any other county in the Commonwealth, may participate under the provisions of this section. The Board shall promulgate regulations specifying the categories of offenders which may be served pursuant to the contracts provided for herein.

The governing bodies of localities participating in an agreement for cooperative jailing shall create a board to advise the locality in which the jail facility is located on matters affecting operation of the facility. Each participating locality shall have at least one representative on the board. The sheriff and any member of the local governing body of each participating locality shall be eligible for appointment to the board; however, when a participating locality appoints more than one representative, the sheriff shall be appointed unless the sheriff is the administrator or superintendent of the jail facility operated pursuant to the agreement for cooperative jailing. A sheriff serving as such administrator or superintendent shall be an ex officio member of the board.

When such contracts are approved by the Board and, for the implementation of the contract, require the construction, enlargement, or renovation of a regional jail facility or the enlargement or renovation of an existing jail, the Commonwealth shall reimburse each such locality its pro rata share, up to one-half, of the capital costs, as defined in § 53.1-82.2, of such jail project in accordance with the provisions of this section and § 53.1-82.2 if the project was approved by the Governor prior to July 1, 2015, or the project is an enlargement or renovation of a regional jail facility created prior to July 1, 2015, and shall reimburse each such locality its pro rata share up to one-fourth of such capital costs if such project is approved by the Governor on or after July 1, 2015, and has been specifically authorized in the general appropriation act. On or after July 1, 2017, subject to the provisions of § 53.1-82.2, the Commonwealth shall reimburse each such locality its pro rata share up to one-fourth of the capital costs, as defined in § 53.1-82.2, for any construction, enlargement or renovation project in accordance with the provisions of this section if such project is approved by the Governor on or after July 1, 2017, and has been specifically authorized in the general appropriation act. Any agreement for cooperative jailing entered into on or after July 1, 1991, which requires the construction, enlargement, or renovation of a single or regional jail facility shall require such counties, cities and towns to participate in the costs of the facility for a minimum period of thirty years.

The Board shall promulgate regulations, to include criteria which may be used to assess need and establish priorities, to serve as guidelines in evaluating requests for such reimbursement and to ensure the fair and equitable distribution of state funds provided for such purpose. The Department

shall apply such regulations in preparing requests for appropriations. No such reimbursement shall be had unless the plans and specifications, including the need for additional personnel, thereof have been submitted to the Governor, and the jail project has been approved by him. The Governor shall base his approval in part on the expected operating cost-efficiency of the interior design of the facility. Such reimbursement shall be paid subject to the provisions of § 53.1-82.2.

B. In the event that a county, city or town requests and receives financial assistance for capital costs of a jail project from the Department of Criminal Justice Services or from other public fund sources outside of the provisions of this section, the total financial assistance and reimbursement shall not exceed the total cost of the project.

In addition, no such reimbursement shall be had by localities entering into a contract pursuant to this section on or after February 1, 1993, unless at least three of the participating localities were each operating a jail on February 1, 1993.

Code 1950, § 53-133.3; 1981, c. 380; 1982, c. 636; 1983, c. 358; 1989, c. 423; 1991, c. 453; 1993, cc. 387, 787; 1995, c. 305; 2015, c. 749; 2017, c. 211.

§ 53.1-82.1. Approval of jail projects by the Board; plan for community corrections.

The Board shall promulgate regulations requiring localities seeking approval of a jail project to (i) submit a community-based corrections plan and (ii) demonstrate that the project can be completed and operated in a cost-efficient manner. Such regulations shall require, at a minimum, the following:

1. That the request include an analysis of staffing needs and a six-year operating budget for the proposed facility;

2. That the request include a plan for development and implementation of pre-trial detention alternatives and post-disposition punishment alternatives on a systematic local and regional basis, which plan shall be reviewed, modified and approved by the Board with assistance from the Department of Criminal Justice Services; and

3. That the project be based on a locality- or region-specific jail population forecast, which shall include an analysis of the impact on the jail population of the alternatives identified pursuant to subdivision 2 of this section, and which forecast shall be reviewed by the Department of Criminal Justice Services.

The Board shall approve no proposed jail project which does not conform to the regulations promulgated pursuant to this section.

The provisions of this section shall not apply to jail renovation projects which do not result in a net increase in available bed space.

1993, cc. 387, 787; 2000, c. 1040.

§ 53.1-82.2. Method of reimbursement; involvement of the Treasury Board.

A. Reimbursements by the Commonwealth to localities or regional jail authorities for a portion of the capital costs of a jail project, made pursuant to §§ 53.1-80, 53.1-81, 53.1-82, or § 53.1-95.19 may be effected by one of the following methods:

1. In one lump sum payment to be made upon completion of the project, for minor renovation projects, or two equal lump sum payments, one such payment to be made upon certification that the construction, enlargement or renovation is fifty percent complete and the second such payment to be made upon completion of the project, such payments to be paid by the State Treasurer out of funds appropriated to the Department of Corrections;

2. Over a specified period of time through a contractual agreement entered into by the Treasury Board and approved by the Governor, on behalf of the Commonwealth, and the locality, localities or regional authority or other combination of localities undertaking a jail project, such payments to be paid by the State Treasurer out of funds appropriated to the Treasury Board; or

3. In one lump sum payment to be made upon completion of the project by the Virginia Public Building Authority pursuant to § 2.2-2263, including the Commonwealth's share of the interest costs expended by the locality or regional jail authority for financing such project during the period from fifty percent completion of construction to final completion of construction.

B. The General Assembly shall have the sole authority to determine whether reimbursement will be made pursuant to subdivision A 1, A 2, or A 3. The Department of Planning and Budget, after consulting with the Treasury Board, shall evaluate all proposed jail projects and make recommendations to the Governor regarding the method of reimbursement for inclusion in his biennial budget.

C. Any contract for reimbursement over a specified period of time entered into pursuant to subdivision A 2 shall include the following:

1. The Commonwealth shall reimburse a portion of financing costs as provided in subsection E below;

2. The Commonwealth's reimbursement payments shall be subject to appropriation;

3. In the event that the jail project is financed through an issuance of securities, the Commonwealth's reimbursement payments shall be calculated using the coupon interest rates received by the locality or jail authority at the time the securities for the project are sold and shall be made pursuant to a schedule to be set forth in the contract;

4. In the event that a jail project is financed through an issuance of securities, and coupon interest rates are not available due to the structure of the securities, the Treasury Board is authorized to make such adjustments as are necessary and reasonable to calculate the Commonwealth's payments;

5. In the event that the jail project is financed through a method other than the issuance of securities, the Commonwealth's payment shall include interest payments based on an interest rate assumption equal to the prevailing AA rate for tax-exempt bonds issued by the Commonwealth or agencies thereof, or the actual rate achieved, whichever is lower, and the schedule for the Commonwealth's reimbursement payments shall be set forth in the contract; and

6. Such other terms and conditions as are necessary to specify the structure of the Commonwealth's participation in project financing and as may be required by guidelines established by the Treasury Board.

Reimbursement to localities pursuant to this section shall be available without regard to the security level of the facility constructed, enlarged or renovated, provided such facility satisfies applicable standards established by the Board pursuant to § 53.1-68.

D. For purposes of this article, "capital costs" includes, but is not limited to, actual construction costs, costs of land acquisition, if the land purchased is used exclusively for siting a jail facility, architectural and engineering fees, and fixed equipment. "Capital costs" does not include administrative costs nor a financial advisor's, an investment banker's, or attorneys' fees incurred by local governments or, except in the case of minimum security facilities, loose equipment or furnishings.

E. For purposes of this article, "financing costs" means the total of all costs incurred by the locality, localities or regional authority or other combination of localities as are deemed reasonable and necessary by the Treasury Board to execute the financing of the Commonwealth's payment of capital costs and to fund such funds and accounts as the Treasury Board determines to be reasonable and necessary.

1993, cc. 387, 787; 1995, c. 305; 1996, c. 835.

§ 53.1-82.3. Budgeting schedule for jail projects.

A. Any city or county or any combination of cities or counties requesting state financial assistance pursuant to §§ 53.1-80, 53.1-81 or § 53.1-82 shall, on or before March 1 biennially in the odd-numbered years, submit to the Governor, in a format prescribed by the Department of Corrections for such purpose, a community-based corrections plan and specifications, including detailed cost estimates of any facility construction. On or before July 1 in the odd-numbered years, such localities shall also submit to the Governor, in a format prescribed for such purpose by the Department of the Treasury, the expected financing costs for any such facility construction in accordance with § 53.1-82.2. The Governor shall submit his recommendations for funding such projects as part of the budget bill on or before December 20 of the year immediately prior to the beginning of each regular session held in an even-numbered year of the General Assembly. Requests for appropriations of such funds shall be considered by the General Assembly only in even-numbered years.

B. In the event that the state share of reimbursable costs of the jail facility is estimated to be less than or equal to $1,000,000, such localities shall be exempt from submitting to the Governor, in a format prescribed for such purpose by the Department of the Treasury, the expected financing costs for any such facility construction in accordance with subsection A above, unless such localities seek reimbursement of financial costs associated with such facility construction.

1993, cc. 387, 787; 1995, c. 305; 1998, cc. 498, 504; 2000, c. 1040.

§ 53.1-83. Repealed.

Repealed by Acts 1993, cc. 387 and 787.

§ 53.1-83.1. How state appropriations for operating costs of local correctional facilities determined.
The Governor's proposed biennial budget bill shall include, for each fiscal year, an appropriation for operating costs for local correctional facilities. The proposed appropriation shall include:

1. An amount for compensating localities for the cost of maintaining prisoners arrested on state warrants in local jails, regional jails and jail farms, at a specified rate per prisoner day;

2. An amount for maintaining convicted state felons in local correctional facilities, at a specified rate per felon day, pursuant to § 53.1-20.1;

3. An amount to pay two-thirds of the salaries of medical and treatment personnel approved by the State Compensation Board; and

4. An amount to be set aside for unanticipated medical emergencies.

1983, c. 358; 1992, cc. 333, 573.

§ 53.1-84. State funds available to local correctional facilities for operating costs.
The Compensation Board shall apportion among local correctional facilities moneys appropriated in the general appropriation act for the purpose of financial assistance for the confinement of persons in local facilities in accordance with reports of prisoner days provided by the Department.

The county or city receiving such funds or a combination of counties or cities or both receiving such funds on behalf of a regional facility shall pay therefrom the operating costs of its local adult correctional facilities and programs. Criminal costs prior to confinement shall be paid out of funds appropriated pursuant to § 19.2-332.

Regulations adopted by the Board to implement the provisions of §§ 53.1-84 through 53.1-86 shall not be subject to legislative review as provided in § 2.2-4014. In the adoption of such regulations, the Board shall comply with all other requirements of the Administrative Process Act (§ 2.2-4000 et seq.), and in any subsequent amendments thereto shall comply with all the provisions of § 2.2-4012.

1982, c. 636; 1983, c. 358.

§ 53.1-85. Time and manner of payment.
Notwithstanding any contrary provisions of this Code which provide for state reimbursement of certain costs incurred by local correctional facilities, the time and manner of such payments shall be as hereinafter prescribed.

Each facility's apportionment pursuant to § 53.1-84 shall be paid by the Compensation Board to the responsible local governing body or fiscal agent of such facility in quarterly installments beginning July, 1983.

The amount of the quarterly installment for each facility will be the sum of the following:

1. The number of state prisoner days registered by the facility in the preceding quarter, pursuant to § 53.1-121, times the specified rate per prisoner day;

2. The number of prisoner days registered for convicted state felons by the facility in the preceding quarter times the specified rate per felon day, pursuant to § 53.1-20.1; and

3. One-fourth of the annual cost for salaries and fringe benefits for medical and treatment personnel approved by the Compensation Board pursuant to § 15.2-1636.7.

Funds held in the emergency reserve shall be distributed on the written authorization of the Compensation Board. In the event of emergencies, the Compensation Board may reallocate any portion of the reserve among individual facilities. Any balance remaining in the reserve at the close of the budgetary period shall revert to the general fund of the state treasury.

1982, c. 636; 1983, c. 358; 1992, cc. 333, 573.

§ 53.1-86. Limitation on use of state funds; records of receipts and disbursements.

No locality receiving state funds under § 53.1-85 shall use such funds for any purpose other than for paying expenses incurred as the result of the confinement of persons in local correctional facilities. The Department shall require a locality to return any portion of state funds expended in violation of this provision to the state treasury. Should an unexpended balance of state funds exist at the end of the apportionment year, the unencumbered funds in such balance may be reverted to the local treasury and subsequently shall be expended for operating expenses of local correctional facilities. In the case of regional correctional facilities, the unexpended balance of state funds shall be apportioned by the regional facility's governing body to the participating localities based on the number of prisoner days of persons confined in the facility from each jurisdiction.

Each locality shall keep records of receipts and disbursements of state funds received pursuant to § 53.1-85. Such records shall be open for evaluation by the Department and audit by the Auditor of Public Accounts.

1982, c. 636.

§ 53.1-87. Cost of maintenance of jails; payment by localities of respective shares of costs; judicial resolution of disagreements.

A. In any instance in which a local correctional facility of a county, city or town is designated by the Board as the place where prisoners committed by the courts or other authorities of any other county, city or town shall be confined, any capital outlay expenses incurred for necessary repairs, improvements or additions to such facility, and all costs of maintenance of the facility chargeable to the localities, shall be borne ratably by the several counties, cities or towns using it.

B. The share of each respective county, city or town involved in such costs shall be such proportion of the total cost of such repairs, improvements, additions and other such costs as the total aggregate number of days spent in local correctional facilities by prisoners committed by the courts or other authorities of such county, city or town, for the five-year period next preceding the year in which such repairs, improvements or additions are begun, or other costs incurred, bears to the total aggregate number of days spent in local correctional facilities by the prisoners committed by the courts or other authorities of both or all of the counties, cities and towns using the facility to which such repairs,

improvements or additions are made or in which such other costs are incurred. The amount to be paid by each county, city or town involved shall be determined by the Board on the basis herein set forth.

C. The Board shall furnish a statement of the several shares of the cost so determined to the governing body of each county, city and town involved, and the respective shares shall be paid within thirty days from the date upon which such statement is furnished. If the costs of any such repairs, improvements or additions will not exceed $2000 they may be authorized by the governing body of the county, city or town to whose correctional facility such repairs, improvements or additions are to be made. If the costs will exceed $2000, such repairs, improvements or additions shall be recommended by the Board and agreed on in advance by the governing bodies of both or all of the counties, cities and towns involved.

In case of disagreement, the matter of the extent of the repairs, improvements or additions and the proportionate cost to the respective localities involved shall be determined by the circuit court of the locality which owns or maintains the correctional institution proposed to be repaired, improved or added to, upon the petition of the Board.

Code 1950, § 53-136; 1970, c. 648; 1982, c. 636.

§ 53.1-88. Governing body to examine statements, accounts and invoices and issue warrants.
The governing body of each city or county or its duly authorized representative shall examine all statements of account and invoices laid before it by the sheriff pursuant to §§ 53.1-126 and 53.1-133.5. After satisfying itself that the statements and invoices are correct, the governing body shall cause warrants to be issued on the county or city treasurer, or other disbursing officer, for the payment of such accounts and invoices.

Code 1950, § 53-178; 1982, c. 636; 1992, c. 859.

§ 53.1-89. Repealed.
Repealed by Acts 1983, c. 358.

§ 53.1-90. Pay for United States prisoners.
Each sheriff or jail superintendent shall collect from the United States, for prisoners of the United States confined in the jail of his county, city or region, such amounts as shall be agreed upon by the governing body of the county or city or, in the case of a regional jail, the regional jail authority or, if none, the body responsible for the fiscal management of the regional jails and the appropriate authorities of the Government of the United States, which amounts shall not be less than the actual cost of feeding, clothing, caring for and furnishing medicine and medical attention for such prisoners.

Code 1950, § 53-181; 1982, c. 636; 1991, c. 383.

§ 53.1-91. Pay for prisoners from other counties, cities or towns.
Each sheriff or jail superintendent shall collect from the counties, cities and towns of the Commonwealth, other than the county, city or region for which he is elected or appointed, and from any other state or country for which any prisoner is held in such jail, the reasonable costs of guarding,

feeding, clothing, caring for and furnishing medicine and medical attention for prisoners held for such county, city, town, state or country, to be determined by agreement with the governmental unit involved, or, in the absence of such agreement, as shall be determined by the governing body of his county, city or regional jail.

The term "reasonable costs," as used in this section, means an amount not to exceed actual costs, including depreciation, less such amounts as may be paid by the Commonwealth pursuant to §§ 15.2-1609.8 and 53.1-85.

Code 1950, § 53-182; 1982, c. 636; 1983, c. 358; 1991, c. 383.

§ 53.1-92. Disposition of money collected from United States or other counties, cities or towns.
All moneys so collected by such sheriff from the United States or from any such county, city, town, state or country shall be promptly paid into the treasury of his county or city. The total amount so collected shall be retained by such county or city. All moneys so collected by jail superintendents shall be promptly paid into the treasury of the regional jail authority or, if none, the body responsible for the fiscal management of the regional jail.

Code 1950, § 53-183; 1982, c. 636; 1991, c. 383.

§ 53.1-93. When sheriffs to summon or employ guards and other persons; allowances therefor; fees charged to prisoner.
Whenever in the discretion of the court it is necessary for the safekeeping of a prisoner under charge of or sentence for a crime, whether the prisoner be in jail, hospital, court or elsewhere, the court may order the sheriff to summon a sufficient guard. Whenever ordered by the court to do so, the sheriff shall summon or employ temporarily such persons as may be needed to preserve proper order or otherwise to aid the court in its proper operation and functioning. For such guard or other service the court may allow so much as it deems proper, not exceeding the hourly equivalent of the minimum annual salary paid a full-time deputy sheriff who performs like services in the same county or city. In addition, mileage and other expenses for rendering the services shall be paid for each such person. A prisoner may be charged reasonable fees for providing him a security escort, supervision and transportation to and from a funeral or graveside service.

Code 1950, §§ 19-283, 19.1-308, 53-183.2; 1956, c. 687; 1960, c. 366; 1972, c. 145; 1973, c. 401; 1976, c. 286; 1981, c. 386; 1982, c. 636; 2002, c. 336.

§ 53.1-94. Same when paid by county or city; same when by Compensation Board.
The circuit court, before certifying any allowance pursuant to § 53.1-93, shall inquire into the condition of the jail. If it appears that a guard was necessary because of the insecurity of the jail, it shall order the allowance to be certified to the governing body of the county or city. If otherwise, and the guard was necessary, the allowance shall be paid out of the budget of the sheriff as approved by the Compensation Board.

Code 1950, §§ 19-284, 19.1-309, 53-183.3; 1960, c. 366; 1972, c. 145; 1982, c. 636; 1985, c. 321.

§ 53.1-95. Provisions applicable to jail farms of counties and cities.

A. When the control, management and supervision of the jail farm of any county or city is not vested in the sheriff of such county or city, such county or city shall be paid out of state funds pursuant to § 53.1-85 for the care and custody at such jail farm of persons accused or convicted of any offense against the laws of the Commonwealth, and witnesses held in cases to which the Commonwealth is a party. Such payments shall include only the reasonable cost of guarding, and providing necessary housing, maintenance, administrative expenses, food, clothing, medicine and medical attention for such prisoners.

A1. Such county or city may also collect from other counties, cities or towns of the Commonwealth for which any prisoner is held at the jail farm of such county or city the reasonable cost of feeding, clothing, caring for and furnishing medicine and medical attention for such prisoner, and maintenance and administrative costs of the facility on a per prisoner basis. As used in this section, the term "reasonable cost" means an amount not to exceed actual costs, including depreciation, less such amounts as may be paid by the Commonwealth pursuant to §§ 15.2-1609.8 and 53.1-85.

B. When the control, management and supervision of the jail farm of any county or city is not vested in the sheriff of such county or city, the county or city may collect from the United States, for prisoners of the United States at the jail farm, such amounts as may be agreed upon by the county or city and the appropriate authorities of the Government of the United States, which amounts shall not be less than the actual cost of feeding, clothing and caring for such prisoners. Such county or city may collect from any state, other than this Commonwealth, and from any country other than the United States, for which any prisoner is held at the jail farm of such county or city, the cost of guarding, and providing necessary food, clothing, medicine and medical attention for prisoners held for such other state or country. The amount thereof shall be agreed upon by the governmental units involved.

Code 1950, § 53-188; 1960, c. 411; 1982, c. 636; 1983, c. 358.

§ 53.1-95.1. Limits on state expenditures.

The Governor may withhold approval for state expenditures, by reimbursement or otherwise, for the purposes set out in this article as provided in the current general appropriation act.

1986, c. 394.

Article 3.1 - JAIL AUTHORITIES

§ 53.1-95.2. Jail authority.

The governing bodies of two or more counties, cities, or towns or a combination thereof may by concurrent ordinances or resolutions or by agreement, create a jail authority. Such authority shall be subject to all rights, privileges, and obligations contained in Chapter 3 (§ 53.1-68 et seq.) of this title.

1990, c. 837; 1992, c. 421.

§ 53.1-95.3. Definitions.

As used in this article, the following words and terms shall have the following meanings unless the context indicates another meaning or intent:

"County" means any county in the Commonwealth of Virginia.

"Governing body" means in the case of a county the board of supervisors and in the case of a city or town the board, commission, council or other body by whatever name it may be known, in which the general legislative powers of the city or town are vested.

"Political subdivision" means a county, city, or town of the Commonwealth of Virginia.

"Unit" means any department, institution or commission of the Commonwealth of Virginia and any public corporate instrumentality thereof, and any district, and includes counties and municipalities.

1990, c. 837; 1992, c. 421.

§ 53.1-95.4. Ordinance, agreement or resolution creating authority.

A. Each such ordinance, agreement or resolution shall include the following:

1. The name of the "authority" and address of its principal office.

2. The name of each participating political subdivision, together with the names, addresses and terms of office of the first members of the board of the authority.

3. The purpose or purposes for which the authority is to be created together with, insofar as the governing bodies of the participating political subdivisions determine to be practicable, preliminary estimates of capital costs and financing proposals for any specific project or projects to be undertaken by the authority.

4. The number of members who shall exercise the powers of the authority and the number from each participating political subdivision.

B. Any such ordinance, agreement or resolution that does not set forth the information required in subdivision A 3 of this section regarding capital cost estimates and project financing proposals shall also set forth a finding that inclusion of such information is impracticable.

1990, c. 837.

§ 53.1-95.5. Joinder of new subdivision; withdrawal from authority.

Any political subdivision may become a member of any existing authority, and any political subdivision which is a member of an existing authority may withdraw therefrom, but no political subdivision shall be permitted to withdraw from any authority after any obligation has been incurred by the authority except by unanimous vote of all members of the authority.

The governing body of any political subdivision wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance. The governing body of any political subdivision wishing to become a member of an existing authority and the governing bodies of the political subdivisions then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such political subdivision and specify the number and term of office of members of the expanded authority which are to be appointed by each of the participating political subdivisions, together with the name, address and term of office of initial appointments to membership.

1990, c. 837.

§ 53.1-95.6. Governing body.

The powers of the authority shall be exercised by a governing body established in the manner provided in § 53.1-106.

1990, c. 837.

§ 53.1-95.7. Powers of authority.

Each authority created hereunder shall be deemed to be an instrumentality exercising public and essential governmental functions to provide for the public safety and welfare, and each such authority is hereby authorized and empowered:

1. To have a seal and alter the same at pleasure;

2. To acquire by gift, purchase, lease, or otherwise, and to hold, to sell, at public or private sale, or exchange, lease, mortgage, pledge, subordinate interest in, or otherwise dispose of real and personal property of every kind and character for its purposes;

3. To appoint, select, and employ officers, agents, and employees, including a superintendent of the regional correctional facility and necessary jail officers and employees therefor, and also including engineering and construction experts, fiscal agents and attorneys, and to fix their respective compensations;

4. To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction and financing of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all political subdivisions, departments, institutions, or agencies of the Commonwealth are hereby authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable;

5. To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate, and manage projects, the cost of any such project to be paid in whole or in part from the proceeds or other funds made available to the authority;

6. To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may impose;

7. To accept loans and grants of money or materials or property of any kind from the Commonwealth of Virginia or any agency or instrumentality or political subdivision thereof, upon such terms and conditions as the Commonwealth of Virginia or such agency or instrumentality or political subdivision may impose;

8. To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and to issue negotiable revenue bonds payable solely from funds pledged for

that purpose and to provide for the payment of the same and for the rights of the holders thereof. Any city or county participating in the authority may lend, advance, or give money or materials or property of any kind to the authority;

9. To exercise any power usually possessed by private corporations performing similar functions, which is not in conflict with the Constitution and laws of the Commonwealth;

10. An authority created pursuant to this article and any trustee acting under any trust indenture are specifically authorized from time to time to sell, lease, grant, exchange, or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the authority was created, except as such right and power may be limited as provided in § 53.1-95.8 hereof;

11. To sue and be sued in its own name, plead and be impleaded;

12. To adopt, amend, or repeal bylaws, rules, and regulations, not inconsistent with this article or the general laws of the Commonwealth, for the regulation of its affairs and the conduct of its business and to carry into effect its powers and purposes;

13. To do all things necessary or convenient to carry out the powers expressly given in this article.

1990, c. 837; 1994, c. 270.

§ 53.1-95.8. Authority of superintendent and jail officers; oath and bond; fees charged to prisoner. The superintendent appointed by an authority created pursuant to this article to administer its correctional facility shall have and exercise the same control and authority over the prisoners committed or transferred to such facility as the sheriffs of this Commonwealth have by law over the prisoners committed or transferred to their jails.

During the term of their appointment, the superintendent and jail officers are hereby vested with the powers and authority of a conservator of the peace (i) within the limits of such correctional facility and within one mile thereof; (ii) for the purpose of conveying prisoners to and from such facility; (iii) for the purpose of enforcing the provisions of alternative incarceration and treatment programs pursuant to §§ 53.1-129, 53.1-131, and 53.1-131.2; (iv) for the purpose of providing security and supervision of prisoners taken to a medical, dental, or psychiatric facility; and (v) for the purpose of providing a security escort and supervision of prisoners transported to a funeral or graveside service. Prisoners may be charged reasonable fees for services described in clause (v).

Before entering upon the duties of their office, the superintendent and jail officers shall take and subscribe the oath prescribed by § 49-1. An authority created pursuant to this article may require the superintendent or jail officers or both to give bond in such penalty and with such security as the authority may prescribe, conditioned upon the faithful discharge of the duties of their offices.

1990, c. 837; 1994, cc. 270, 923, 953; 2002, c. 336; 2004, c. 378.

§ 53.1-95.8:1. Handling of funds for regional correctional facility; county or city treasurer or director of finance as fiscal agent.

Any authority constituted pursuant to the provisions of this article or Article 1.1 (§ 53.1-71.1 et seq.) may appoint as its fiscal agent the treasurer of a county or city which is a member of the authority, or in the case of member jurisdictions where there is no treasurer, the director of finance. No treasurer or director of finance shall be appointed as fiscal agent without their concurrence. In the event such treasurer or director of finance is appointed, all disbursements on behalf of the authority shall be by warrant signed by the chairman of the authority or his designee and countersigned by such treasurer or director of finance as fiscal agent. For his services as fiscal agent, a treasurer or director of finance thus appointed may be paid such salary supplement and reimbursed such expenses as may be agreed upon by the board of the authority and the treasurer or director of finance. Such salary supplement and expenses shall be borne exclusively by the authority and not by the Compensation Board.

1996, c. 623.

§ 53.1-95.9. Acquisition of interests in land.

An authority created pursuant to this article is hereby authorized and empowered to acquire by gift or by lease or purchase solely from funds provided under the provisions of this article such lands, structures, property, rights, rights-of-way, franchises, easements, and other interests in lands as it may deem necessary or convenient for the construction and operation of the project upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof.

All public agencies and the commissions of the Commonwealth, with the approval of the Governor, are hereby authorized and empowered to lease, lend, grant, or convey to an authority created pursuant to this article at its request, upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court, or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real property already devoted to public use.

Title to any property acquired by an authority created pursuant to this article shall be taken in the name of the authority.

1990, c. 837.

§ 53.1-95.10. Issuance of revenue bonds.

An authority created pursuant to this article is hereby authorized to provide by resolution for the issuance, at one time or from time to time, of revenue bonds of the authority for the purpose of paying all or any part of the cost of the project. The principal of and the interest on such bonds shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated, shall bear interest at such rate or rates as shall be fixed by the authority, shall mature at such time or times not exceeding forty years from their date or dates, as may be determined by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form and the manner of execution of the bonds, including any interest coupons to

be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. Notwithstanding any other provision of this article or any recitals in any bonds issued under the provisions of this article, all such bonds shall be deemed to be negotiable instruments under the laws of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, for the reconversion into coupon bonds of any bonds registered as both principal and interest and for the interchange of registered and coupon bonds. The authority may sell such bonds in such manner, either at public or negotiated sale, or for such price, as it may determine will best effectuate the purposes of this article.

The proceeds of the bonds shall be used solely for the payment of the cost of the project and shall be disbursed in such manner and under such restrictions, if any, as the authority may provide in the resolution authorizing the issuance of such bonds or in the trust agreement hereinafter mentioned securing the same. If the proceeds of the bonds of any issuance, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be deemed to be the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds.

Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this article without obtaining the consent of any department, division, commission, board, bureau, or agency of the Commonwealth, and without any other proceedings or the happening of any conditions other than those proceedings or conditions which are specifically required by this article.

Revenue bonds issued under the provisions of this article shall not be deemed to constitute a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof. All such bonds shall contain a statement on their face substantially to the effect that neither the faith and credit of the Commonwealth nor the faith and credit of any county, city, town, or other subdivision of the Commonwealth is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this article shall not directly or indirectly or contingently obligate the Commonwealth or any county, city, town, or other subdivision of the Commonwealth to levy any taxes

whatever therefor or to make any appropriation for their payment except from the funds pledged under the provisions of this article.

1990, c. 837.

§ 53.1-95.11. Trust agreements.

In the discretion of an authority created pursuant to this article, any bonds issued under the provisions of this article may be secured by a trust agreement by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. Such trust agreement or the resolution providing for the issuance of such bonds may pledge or assign the charges and other revenues to be received, but shall not convey or mortgage the project or any part thereof. Such trust agreement or resolution providing for the issuance of such bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition of property and the construction, improvement, maintenance, repair, operation, and insurance of the project, the rates to be charged for services, and the custody, safeguarding, and application of all moneys. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of bonds or of revenues to furnish such indemnifying bonds or to pledge such securities as may be required by the authority. Any such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition to the foregoing, any such trust agreement or resolution may contain such other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of the operation of the project.

1990, c. 837.

§ 53.1-95.12. Charge for use of services.

An authority created pursuant to this article is hereby authorized to fix, revise, and charge for the use of the service furnished by the project and to contract with any unit or department of government at any level, including cities, counties, towns, authorities, regional jail boards, and the state and federal governments and their respective departments, commissions and agencies, desiring the use of any part thereof, and to fix the terms, conditions, rents, and rates of charges for such use. Such charges shall be so fixed and adjusted in respect to the aggregate of the charges from the project as to provide a fund sufficient with other revenues, if any, to pay (i) the cost of maintaining, repairing, and operating such project and (ii) the principal of and interest on such bonds as the same shall become due and payable and to create reserves for such purposes. The revenues derived from the project, except such part thereof as may be necessary to pay such cost of maintenance, repair, and operation and to provide such reserves therefor as may be provided for in the resolution authorizing the issuance of such bonds or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in such resolution or such trust agreement in a sinking fund which is hereby pledged

to, and charged with, the payment of the principal of and the interest on such bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. Such pledge shall be valid and binding from the time when the pledge is made; the revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in such resolution or such trust agreement, such sinking fund shall be a fund for all such bonds without distinction or priority of one over another.

1990, c. 837.

§ 53.1-95.13. Revenues and proceeds from sale of bonds.

All moneys received pursuant to the provisions of this article, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. An authority created pursuant to this article may provide for the payment of its revenues to such officer, board, or depository as it may designate for the custody thereof, and for the method of disbursement thereof, with such safeguards and restrictions as it may determine. The authority shall, in the resolution authorizing the bonds or in the trust agreement securing such bonds, provide for the payment of the proceeds of the sale of the bonds to a trustee, which shall be any trust company or bank having the powers of a trust company within or without the Commonwealth, which shall act as trustee of the funds, and hold and apply the same to the purposes of this article, subject to such regulations as this article and such resolution or trust agreement may provide. The trustee may invest and reinvest such funds in such securities as may be provided in the resolution authorizing the bonds or in the trust agreement securing such bonds.

1990, c. 837.

§ 53.1-95.14. Rights of bond holders and trustees.

Any holder of bonds issued under the provisions of this article or of any of the coupons appertaining thereto, and the trustee under any trust agreement, except to the extent the rights herein given, may be restricted by such trust agreement, may either at law or in equity, by suit, action, injunction, mandamus, or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted by this article or under such trust agreement or the resolution authorizing the issuance of such bonds and may enforce and compel the performance of all duties required by this article or by such agreement or resolution to be performed by an authority created pursuant to this article or by any officer or agent thereof including the fixing, charging, and collection of such charges.

1990, c. 837.

§ 53.1-95.15. Exemption from taxes.

The exercise of the powers granted by this article shall be in all respects for the benefit of the inhabitants of the Commonwealth, for the increase of their commerce, and for the promotion of their safety, health, welfare, convenience, and prosperity, and as the operation and maintenance of the project by an authority created pursuant to this article will constitute the performance of essential governmental functions, the authority shall not be required to pay any taxes or assessments upon the project or any property acquired or used by the authority under the provisions of this article or upon the income therefrom; and the bonds issued under the provisions of this article, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free and exempt from taxation by the Commonwealth and by any municipality, county, or other political subdivision thereof.

1990, c. 837.

§ 53.1-95.16. Issuance of revenue refunding bonds.

The authority is hereby authorized to provide by resolution for the issuance of its revenue refunding bonds for the purpose of refunding any bonds then outstanding which shall have been issued under the provisions of this article, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the authority, for the additional purpose of constructing enlargements, renovations, or improvements of the project. The issuance of such bonds, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the authority in respect of the same, shall be governed by the provisions of this article insofar as the same may be applicable.

1990, c. 837.

§ 53.1-95.17. General purpose of an authority.

Without limiting the generality of any provisions of this article, the general purpose of an authority created pursuant to this article is declared to be that of acquiring, constructing, equipping, maintaining, and operating a jail or jail farm and the usual facilities appertaining to such undertakings; enlarging, renovating, and improving such facilities; acquiring the necessary property therefor, both real and personal, with the right of contract for the use of or to lease, mortgage, or sell any or all of such facilities, including real property; and doing any and all things deemed by the authority necessary, convenient, and desirable for and incident to the efficient and proper development and operation of such types of undertakings.

1990, c. 837.

§ 53.1-95.18. Design-build contracts.

An authority created pursuant to this article may enter into a contract for a jail on a fixed price or not-to-exceed price design-build basis or construction management basis in accordance with procedures consistent with those described in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) for procurement of nonprofessional services through competitive negotiation. The authority may authorize payment to no more than three responsive bidders who are not awarded the design-build contract if

the authority determines that such payment is necessary to promote competition. The authority shall not be required to award a design-build contract to the lowest bidder but may consider price as one factor in evaluating the proposals received. The authority shall maintain adequate records to allow post-project evaluation by the Commonwealth.

1990, c. 837.

§ 53.1-95.19. State reimbursement.

An authority created pursuant to this article shall be eligible to receive state reimbursement for jail construction and operation in accordance with the provisions of Article 3 (§ 53.1-80 et seq.) of this chapter. State reimbursement for the cost of the project shall be made to the authority and shall be determined as if each participating political subdivision in the authority had contributed its pro rata share of such cost. However, when an authority created pursuant to this article enters into an agreement with one or more political subdivisions not participating in the authority for the purpose of construction and operating a jail, that share of the state reimbursement due to any political subdivision not participating in the authority shall be made directly to such political subdivision in accordance with the provisions of Article 3 of this chapter. The Commonwealth shall fund the positions of superintendent, correctional officers, and two-thirds of the salaries of required medical or treatment personnel on a basis approved by the State Compensation Board. Such salaries shall be paid in the manner provided in § 15.2-1609.2, and such section shall be applicable mutatis mutandis to such superintendent.

The superintendent of the correctional facility shall report on the first day of each month to the Director of the State Department of Corrections to give the record of each prisoner received during the preceding month on blank forms to be furnished by the Director, to state whether the offense for each prisoner is for violation of state law or of city or town ordinance. The report shall be signed by both the superintendent and chairman of the authority. Either signer found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report within five days after the date when the report is to be forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days from that date, then the Director shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth.

1990, c. 837.

§ 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 Local and Regional Jails, for the operation of the project or projects constructed under the provisions of this article.

1990, c. 837; 2020, c. 759.

§ 53.1-95.21. Supplemental and additional powers.

The foregoing sections of this article shall be deemed to provide an additional and alternative method for the performance of acts authorized thereby, shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing.

1990, c. 837.

§ 53.1-95.22. Liberal construction.

This article, being necessary for the welfare of the Commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

1990, c. 837.

§ 53.1-95.23. Repealed.

Repealed by Acts 2015, c. 709, cl. 2.

§ 53.1-95.24. Inconsistent laws inapplicable.

All other general or special laws inconsistent with any provision of this article are hereby declared to be inapplicable to the provisions of this article.

1990, c. 837.

Article 4 - COUNTY AND CITY FARMS

§ 53.1-96. County and city farms; persons who may be confined.

The governing body of any county or city may, within its respective jurisdiction or elsewhere, establish and maintain a farm where any person convicted and sentenced to confinement in the jail of such county or city, or sentenced to a state correctional institution, may be confined and required to do such work as may be assigned him during the term of his sentence. A local jail farm may be used to hold or confine any person who could be lawfully held or confined in a jail operated by the county or city.

The governing body or the farm board appointed to supervise and manage the farm may prescribe rules and regulations to govern the operation of the farm.

Code 1950, § 53-195; 1954, c. 193; 1970, c. 648; 1979, c. 700; 1982, c. 636; 2007, cc. 95, 106.

§ 53.1-97. Appointment of superintendent and guards.

The governing body of the county or city establishing and maintaining a farm may appoint a superintendent of the farm and necessary guards therefor who shall serve at the pleasure of the appointing authority.

Code 1950, § 53-197; 1982, c. 636.

§ 53.1-98. Authority of superintendent and guards.

The superintendent shall have and exercise the same control and authority over the prisoners committed or transferred to such farm as the sheriffs of the Commonwealth have by law over the prisoners committed or transferred to their jails.

During the term of their appointment the superintendent and guards are hereby invested with the powers and authority of a conservator of the peace (i) within the limits of such farm and within one mile thereof, whether such farm is situated within or beyond the limits of the political subdivision establishing and maintaining the same, and (ii) in conveying prisoners to and from such farm.

Code 1950, § 53-198; 1970, c. 648; 1982, c. 636.

§ 53.1-99. Jurisdiction of offenses committed by prisoners.

Whenever any farm is situated beyond the limits of the city establishing and maintaining it, the courts of such city shall have concurrent criminal jurisdiction with the courts of the county or city in which such farm, or any part thereof, is situated of all offenses committed within the boundaries of the farm by persons confined thereto.

The courts of such city shall have concurrent criminal jurisdiction with the courts of the county or city in which any of these offenses are committed: (i) escape, (ii) larceny of or willful damage or destruction of property owned by the city establishing and maintaining the farm, and (iii) offenses against the person or property of any employee of such city, if such offenses are committed en route between the farm and any other point by any person confined at the farm who is being transported thereto for confinement or being transported therefrom following confinement.

Code 1950, § 53-198.1; 1960, c. 286; 1982, c. 636.

§ 53.1-100. Oath and bond of superintendent and guards.

Before entering upon the duties of their office, the superintendent and guards shall take and subscribe the oath prescribed by § 49-1. The governing body of the county or city maintaining a farm may require the superintendent or guards or both to give bond in such penalty and with such security as the governing body may prescribe, conditioned upon the faithful discharge of the duties of their offices.

Code 1950, § 53-199; 1982, c. 636.

§ 53.1-101. Work by prisoners.

All prisoners convicted and sentenced or transferred to a farm shall be required to work on the farm, unless for good cause shown, the court sentencing and committing such prisoners shall order otherwise.

Code 1950, § 53-201; 1970, c. 648; 1079, c. 700; 1982, c. 636.

§ 53.1-102. Sending prisoners to other farms.

Any county or city that has no farm may enter into an agreement with some county or city maintaining a farm to receive and work all persons liable to confinement on such terms and conditions as to the payment of board, medical expenses and clothing as may be mutually agreed upon by the two governing bodies.

Code 1950, § 53-202; 1982, c. 636.

§ 53.1-103. Farm expenses.

All expenses of maintaining a farm and supporting the prisoners worked thereon, including board, clothing and medical attention, shall be borne by the county or city owning the farm, except as herein otherwise provided.

Code 1950, § 53-204; 1982, c. 636.

§ 53.1-104. Funds from which expenses of transportation of person committed shall be paid; limitation upon cost of maintenance.

The expenses of transporting a person committed to a county or city farm from the place of conviction to the farm and of his maintenance and support during his confinement shall be paid out of state funds provided pursuant to § 53.1-85, if the person is convicted and committed for a violation of a law of the Commonwealth, upon the order of the circuit court of the county or city operating the farm. If the person is convicted and committed for a violation of a city ordinance, such expenses shall be paid by the treasurer of the city wherein the person was convicted out of the funds of the city treasury, upon an order of the circuit court of the county or city operating the farm to the farm board of such county or city.

Code 1950, § 53-204.1; 1982, c. 636; 1983, c. 358.

§ 53.1-104.1. Superintendents of jail farms to make monthly reports to Director.

The superintendent of every jail farm shall report on the first day of each month to the Director, giving the record of each prisoner received during the preceding month on blank forms to be furnished by the Director, stating whether the offense of each prisoner is for violation of state law or of city or town ordinance. The report shall be signed by both the superintendent of the jail farm and the chief administrative officer of the county or city which administers the jail farm. Either signer found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report within five days after the date when the report should be forwarded, the Director shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days from that date, then the Director shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth.

1983, c. 358.

Article 5 - REGIONAL JAILS AND JAIL FARMS

§ 53.1-105. County and city regional jail or jail farm; persons who may be confined; release and transfer of prisoners.

Any combination of two or more counties or cities may establish, maintain and operate a regional jail or jail farm. Any person convicted and sentenced to confinement in the jail or jail farm of such county or city or sentenced to a state correctional facility may be confined in a regional jail farm and required to do work as may be assigned him during the term of his sentence. Any regional jail may be used to

hold or confine any person who could lawfully be held or confined in a jail operated and maintained separately.

Subject to the provisions of § 53.1-113 and in the absence of private transportation arranged by the prisoner, any prisoner, after having completed a term of incarceration and upon release from a regional jail operated within Planning District Four or Planning District Five, shall be transported by such regional jail to the locality where the prisoner was arrested or convicted.

Code 1950, § 53-206.1; 1956, c. 681; 1970, c. 648; 1974, c. 553; 1979, c. 700; 1982, c. 636; 1999, c. 990; 2010, c. 547.

§ 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 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.

Code 1950, §§ 53-206.1, 53-206.3, 53-206.4, 53-206.5; 1974, c. 553; 1979, c. 700; 1982, c. 636; 1990, c. 185; 1991, cc. 529, 566, 567, 568; 1992, cc. 212, 628; 1994, cc. 102, 270, 354; 1997, c. 340; 1998, c. 541; 2020, c. 759.

§ 53.1-106.1. Location of jail facilities.

No regional jail or jail farm board or authority created by any combination of two or more counties or cities, whether pursuant to this article or Article 3.1 (§ 53.1-95.2 et seq.) of this chapter, or an Act of Assembly, shall locate a jail or jail farm in a political subdivision which is not a participating political subdivision in the board or authority unless the governing body of the nonparticipating political subdivision grants express consent to such location.

1991, c. 593.

§ 53.1-107. Organization of board; annual report.

The regional jail or jail farm board shall elect a chairman and secretary.

The board shall submit annually to the participating political subdivisions a report showing its activities; a budget, which shall include all revenues, expenditures and employee compensation schedules; and other similar data.

Code 1950, § 53-206.4; 1956, c. 681; 1982, c. 636.

§ 53.1-108. Expenses and allowance.

Members of the regional jail or jail farm board shall be entitled to necessary expenses incurred in attending meetings of the board. They shall each receive an allowance for each day they are in attendance on the board. Such expenses and allowances shall not exceed in any one year the sum of $1,200 per member and shall be paid by the respective governing bodies.

Code 1950, § 53-206.3; 1956, c. 681; 1970, c. 648; 1982, c. 636; 1986, c. 191.

§ 53.1-109. Authority of jail superintendent and jail officers; fees charged to prisoner.

The jail superintendent shall have and exercise the same control and authority over the prisoners committed or transferred to a regional jail or jail farm as the sheriffs of this Commonwealth have by law over the prisoners committed or transferred to local jails.

During the term of their appointment the superintendent and jail officers are hereby invested with the powers and authority of a conservator of the peace (i) within the limits of such jail or jail farm and within one mile thereof, whether such jail or jail farm is situated within or beyond the limits of such political subdivisions establishing and maintaining the same; (ii) for the purpose of conveying prisoners to and from such jail or jail farm; (iii) for the purpose of enforcing the provisions of alternative incarceration or treatment programs pursuant to §§ 53.1-129, 53.1-131, and 53.1-131.2; (iv) for the purpose of providing security and supervision of prisoners taken to a medical, dental, or psychiatric facility; and (v) for the purpose of providing a security escort and supervision of prisoners transported to a funeral or graveside service. Prisoners may be charged reasonable fees for services described in clause (v).

Code 1950, § 53-206.6; 1956, c. 681; 1970, c. 648; 1982, c. 636; 1991, c. 383; 1994, cc. 923, 953; 1999, cc. 829, 846; 2002, c. 336; 2004, c. 378.

§ 53.1-109.01. Authority for regional jail officers to carry weapons.

It shall be lawful for any regional jail officer who has been designated by the superintendent, and who has completed the basic course in firearms for jailers and custodial officers pursuant to subdivision 7 of § 9.1-102, to carry and use sufficient weapons to prevent escapes, suppress rebellion, and defend or protect himself or others in the course of his assigned duties.

1999, c. 131.

§ 53.1-109.1. Handling of funds for regional jail or jail farm; county or city treasurer or director of finance as fiscal agent.

Any regional jail or jail farm constituted pursuant to the provisions of this article may appoint as its fiscal agent the treasurer of a county or city which is a member of the board of the jail or jail farm, or in a member jurisdiction where there is no treasurer, the director of finance. No treasurer or director of finance shall be appointed fiscal agent without their concurrence. In the event such treasurer or director of finance is appointed, all disbursements on behalf of the jail or jail farm shall be by warrant signed by the chairman of the board of the jail or jail farm or his designee and countersigned by such treasurer or director of finance as fiscal agent. For his services as fiscal agent, a treasurer or director of finance thus appointed may be paid such salary supplement and reimbursed such expenses as may be agreed upon by the board of the jail or jail farm and the treasurer or director of finance. Such salary supplement and expenses shall be borne exclusively by the regional jail or jail farm and not by the Compensation Board.

1996, c. 623.

§ 53.1-109.2. Regional jail superintendents not to be interested in private corrections enterprises.

No regional jail superintendent shall also serve as an officer or partner of, or derive any personal benefit from, any private corrections enterprise or private corrections corporation doing business in the Commonwealth. However, nothing in this section shall prohibit any regional jail superintendent from providing consultation services for remuneration to any public entity regarding correctional matters, or from receiving pension, deferred compensation or other retirement benefits arising exclusively out of employment by a private corrections enterprise or private corrections corporation prior to appointment as superintendent.

1996, c. 623.

§ 53.1-110. Oath and bond of superintendent and jail officers.

Before entering upon the duties of their office the superintendent and jail officers shall take and subscribe the oath prescribed by § 49-1. The board shall require the superintendent and jail officers to participate in the blanket surety bond plan for state and local employees established in § 2.2-1840.

Code 1950, § 53-206.7; 1956, c. 681; 1982, c. 636; 1991, c. 383; 1995, c. 5.

§ 53.1-111. Work of prisoners.

All prisoners convicted and sentenced or transferred to a jail or jail farm shall be required to work on the jail or jail farm or on any other property as the board may direct, unless for good cause shown the court sentencing and committing such prisoners shall order otherwise.

Code 1950, § 53-206.8; 1956, c. 681; 1970, c. 648; 1979, c. 700; 1982, c. 636.

§ 53.1-112. Jail or jail farm expenses.

Except as provided in § 53.1-114, the expenses of operating and maintaining a jail or jail farm and supporting the prisoners working thereon, including board, clothing and medical attention, shall be borne by the participating political subdivisions. Such participation shall be based on the percentage of the total cost for such operation that the number of prisoner days bears to the total number of prisoner days confined therein, plus their proportionate part of the fixed cost for such maintenance and operation.

Code 1950, § 53-206.9; 1956, c. 681; 1968, c. 525; 1982, c. 636.

§ 53.1-113. Transportation of prisoners to jail or jail farm.

Except as provided in § 53.1-114, each political subdivision participating in a jail or jail farm shall bear the cost of transporting its prisoners to and from the jail or jail farm.

Code 1950, § 53-206.10; 1956, c. 681; 1968, c. 525; 1982, c. 636.

§ 53.1-114. Reimbursement of costs.

Counties and cities or any combination thereof operating a regional jail or jail farm shall be paid the reasonable cost of maintaining the facility as provided for in § 53.1-85.

Code 1950, § 53-206.11; 1956, c. 681; 1968, c. 525; 1982, c. 636.

§ 53.1-115. Payment of salaries of superintendents and medical and treatment personnel.

The Commonwealth shall pay two-thirds of the salaries of the superintendents and approved medical and treatment personnel of such jails. The other one-third shall be paid pro rata by the participating political subdivisions. Such salaries shall be paid in the manner provided in § 15.2-1609.2, and such section shall be applicable mutatis mutandis to superintendents of such jails.

Code 1950, § 53-206.12; 1970, c. 706; 1982, c. 636; 1983, c. 358.

§ 53.1-115.1. Superintendents of regional jails and regional jail-farms to make daily reports to Compensation Board.

The superintendent of every regional jail and every regional jail-farm shall report each day to the Compensation Board, giving the record of each prisoner received during the preceding day in an electronic format approved by the Compensation Board, stating whether the offense for each prisoner is for violation of state law or of a city or town ordinance. The computer-generated report shall be authenticated by both the superintendent and chairman of the regional jail-farm board. Either person who authenticates such report and willfully falsifies the information contained in such report is guilty of a Class 1 misdemeanor.

If any superintendent fails to send such report, the Compensation Board shall notify the superintendent of such failure. If the superintendent fails to make the report within ten days, then the Compensation Board shall cause the report to be prepared from the books of the superintendent and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the superintendent by the Commonwealth.

1983, c. 358; 2000, cc. 70, 291; 2006, cc. 857, 914.

§ 53.1-115.2. Establishment of stores in regional jails and regional jail farms.
The superintendent of a regional jail or regional jail farm may, with the approval of the governing regional jail or jail farm board or jail authority, provide for the establishment and operation of stores or commissaries in regional jail or regional jail farm facilities to deal in such articles as he deems proper. The net profits from the operation of such stores shall be used within each facility respectively for educational, recreational, or other beneficial purposes as may be prescribed by the superintendent.

1992, c. 185.

Article 6 - DUTIES OF SHERIFFS

§ 53.1-116. What records and policy jailer shall keep; how time deducted or added for felons and misdemeanants; payment of fine and costs by person committed to jail until he pays.
A. The jailer shall keep a (i) record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail; (ii) record of each prisoner; and (iii) written policy stating the criteria for and conditions of earned credit in the facility and the revocation of such credit.

Unless he is serving a mandatory minimum sentence of confinement, each prisoner sentenced to 12 months or less for a misdemeanor or any combination of misdemeanors shall earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail prior to conviction and sentencing, in which the prisoner has not violated the written rules and regulations of the jail.

Prisoners eligible for parole under § 53.1-151, 53.1-152 or 53.1-153 shall earn good conduct credit at a rate of 15 days for each 30 days served with satisfactory conduct.

The jailer may grant the prisoner additional credits for performance of institutional work assignments, participation in classes, or participation in local work force programs, if available at the facility, at the rate of five days for every 30 days served. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail. It shall be the responsibility of the jailer in each facility to determine the manner in which these additional credits may be awarded and to include this information in the written policy mandated by clause (iii) of this subsection.

For each violation of the rules prescribed herein, the time so deducted shall be added until it equals the full sentence imposed upon the prisoner by the court.

However, any prisoner committed to jail upon a felony offense committed on or after January 1, 1995, shall not earn good conduct credit, sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

B. Notwithstanding the provisions of § 19.2-350, in the event a person who was committed to jail to be therein confined until he pays a fine imposed on him by the court in which he was tried should desire to pay such fine and costs, he may pay the same to the person in charge of the jail. The person receiving such moneys shall execute and deliver an official receipt therefor and shall promptly transmit the amount so paid to the clerk of the court which imposed the fine and costs. Such clerk shall give him an official receipt therefor and shall properly record the receipt of such moneys.

C. The administrator of a local or regional jail shall not assign a person to a home/electronic incarceration program pursuant to subsection C of § 53.1-131.2 in a locality which has a jail operated by a sheriff, without the consent of the sheriff.

Code 1950, § 53-151; 1952, c. 218; 1972, c. 293; 1981, c. 278; 1982, c. 636; 1983, c. 561; 1984, c. 643; 1990, c. 934; 1994, 2nd Sp. Sess., cc. 1, 2; 1996, c. 556; 1998, c. 776; 1999, cc. 951, 1007; 2003, cc. 818, 820; 2004, cc. 400, 461; 2011, c. 491.

§ 53.1-116.1. Jailer to give notice of release of certain prisoners.

A. Prior to the release or discharge of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the sheriff, jail superintendent or other jail administrator shall give notice to the prisoner of his duty to register with the State Police. A person required to register shall register, submit to be photographed as part of the registration, and provide information regarding place of employment, if available, to the sheriff, jail superintendent or other jail administrator. The sheriff, jail superintendent or other jail administrator shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police; inform the person of his duties regarding reregistration and change of address; and inform the person of his duty to register. The sheriff, jail superintendent or other jail administrator shall forthwith forward the registration information to the Department of State Police on the date of the prisoner's release.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the sheriff, jail superintendent or other jail administrator shall promptly investigate or request the State Police to promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was discharged. The sheriff, jail superintendent or other jail administrator shall notify the State Police forthwith of such actions taken pursuant to this section.

C. The sheriff, jail superintendent, or other jail administrator shall notify the State Police immediately upon discovering the escape of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

1994, c. 362; 1997, c. 747; 2003, c. 584; 2006, cc. 857, 914; 2010, c. 858.

§ 53.1-116.1:01. Jailer to give notice of intake of certain prisoners.

A. At the time of intake of any prisoner, for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the sheriff, jail superintendent or other jail administrator shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police. A person required to register shall register, and submit to be photographed as part of the registration. The sheriff, jail superintendent or other jail administrator shall forthwith forward the registration information to the Department of State Police on the date of the prisoner's intake.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the sheriff, jail superintendent or other jail administrator shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was discharged. The sheriff, jail superintendent or other jail administrator shall notify the State Police forthwith of such actions taken pursuant to this section.

2006, cc. 857, 914.

§ 53.1-116.1:02. Jailer-issued identification.

Prior to the release or discharge of any prisoner who has been confined for at least 90 days and does not possess a government-issued identification card, birth certificate, and Social Security card, the sheriff, jail superintendent, or other jail administrator shall provide the assistance necessary for such prisoner to apply for and obtain such identification and documents prior to his release or discharge, provided that the sheriff, superintendent, or administrator has or can readily obtain all records and information necessary for their issuance and the prisoner has not declined an offer by the sheriff, superintendent, or administrator to provide such assistance. If the sheriff, jail superintendent, or other jail administrator receives a government-issued identification card, birth certificate, or Social Security card for a prisoner after his release or discharge, the sheriff, superintendent, or administrator shall make reasonable efforts to ensure that the prisoner obtains possession of such identification or document. The sheriff, jail superintendent, or other jail administrator may establish a procedure for securing such identification through the Department of Motor Vehicles. Unless the prisoner has funds in his account to cover all or part of the costs and fees associated with applying for and obtaining any identification or documents pursuant to this section, such costs shall be paid by the jail.

2010, c. 856; 2020, cc. 484, 523.

§ 53.1-116.2. Sheriffs to be keepers of jails.

The sheriff of each county or city shall be the keeper of the jail thereof unless that locality is a member of a jail or jail farm board or regional jail authority, in which case the provisions of § 53.1-106 shall apply.

1994, c. 491.

§ 53.1-116.3. Improper release; capias, arrest and hearing.

The sheriff or jail superintendent or his designee, upon the discovery of an improper release or discharge of a prisoner from custody, shall report such release or discharge to the sentencing court. The court shall then for good cause shown issue a capias for the arrest of the prisoner which may be executed by any duly sworn jail officer or law-enforcement officer. Such capias shall direct that the prisoner be presented forthwith to the court to determine the propriety of the original discharge or release. After a hearing, if the court is satisfied that the original release or discharge was made improperly, the prisoner shall be returned to the jail facility from which he was released or discharged.

1997, c. 127.

§ 53.1-117. Violations of rules to be recorded in register.

Every time any prisoner in jail is guilty of a violation of the rules so prescribed, the name of the prisoner, the rules which he has violated and the time when each violation occurred shall be recorded in a register provided for that purpose.

Code 1950, § 53-152; 1982, c. 636.

§ 53.1-118. Courts to fine sheriffs for failure to perform duties.

If it appears to the circuit court having jurisdiction that the sheriff or jail superintendent has in any respect failed to perform his duties with respect to the operation of the jail, the court may, after summoning him to show cause against it, summarily fine him not more than fifty dollars.

Code 1950, § 53-161; 1970, c. 648; 1982, c. 636; 1991, c. 383.

§ 53.1-119. Court duties of sheriff.

The sheriff shall provide officers to attend the courts within his jurisdiction while such courts are in session as the respective judges may require. The sheriff, or the superintendent of a regional jail or jail farm, shall receive into the jail facility all persons committed by the order of such courts, or under process issuing therefrom, and all persons committed by any other lawful authority.

Code 1950, § 53-162; 1982, c. 636; 1995, c. 112.

§ 53.1-120. Sheriff to provide for courthouse and courtroom security; designation of deputies for such purpose; assessment.

A. Each sheriff shall ensure that the courthouses and courtrooms within his jurisdiction are secure from violence and disruption and shall designate deputies for this purpose. A list of such designations shall be forwarded to the Director of the Department of Criminal Justice Services.

B. The chief circuit court judge, the chief general district court judge and the chief juvenile and domestic relations district court judge shall be responsible by agreement with the sheriff of the

jurisdiction for the designation of courtroom security deputies for their respective courts. If the respective chief judges and sheriff are unable to agree on the number, type and working schedules of courtroom security deputies for the court, the matter shall be referred to the Compensation Board for resolution in accordance with existing budgeted funds and personnel.

C. The sheriff shall have the sole responsibility for the identity of the deputies designated for courtroom security.

D. Any county or city, through its governing body, may assess a sum not in excess of $20 as part of the costs in each criminal or traffic case in its district or circuit court in which the defendant is convicted of a violation of any statute or ordinance. If a town provides court facilities for a county, the governing body of the county shall return to the town a portion of the assessments collected based on the number of criminal and traffic cases originating and heard in the town. The imposition of such assessment shall be by ordinance of the governing body that may provide for different sums in the circuit courts and district courts. The assessment shall be collected by the clerk of the court in which the case is heard, remitted to the treasurer of the appropriate county or city and held by such treasurer to be appropriated by the governing body to the sheriff's office. The assessment shall be used solely for the funding of courthouse security personnel, and, if requested by the sheriff, equipment and other personal property used in connection with courthouse security.

Code 1950, § 53-168.1; 1972, c. 135; 1982, c. 636; 1986, c. 568; 1988, c. 119; 1989, c. 571; 2002, cc. 533, 756; 2003, cc. 26, 44; 2004, cc. 390, 432; 2006, c. 495; 2007, c. 377; 2020, c. 602.

§ 53.1-121. Sheriffs to make daily reports to Compensation Board; failure to send report.

The sheriff shall report each day to the Compensation Board, giving the record of each prisoner received during the preceding day in an electronic format approved by the Compensation Board, stating whether the offense is for violation of state law or of city or town ordinance.

If any sheriff fails to send such report, the Compensation Board shall notify the sheriff of such failure. If the sheriff fails to make the report within ten days, then the Compensation Board shall cause the report to be prepared from the books of the sheriff and shall certify the cost thereof to the Comptroller. The Comptroller shall issue his warrant on the Treasurer for that amount, deducting the same from any funds that may be due the sheriff by the Commonwealth.

The computer-generated report shall be authenticated by both the chief jailer and the sheriff who shall certify the accuracy of the report. Either authenticator found guilty of willfully falsifying the information contained in such report shall be guilty of a Class 1 misdemeanor.

Code 1950, § 53-169; 1972, c. 573; 1982, c. 636; 1983, c. 358; 1996, c. 288; 1998, cc. 204, 350; 2006, cc. 857, 914.

§ 53.1-122. Daily records of sheriffs and jail superintendents.

Each sheriff and jail superintendent shall keep a daily record showing the total number of prisoners confined in the jail of his county or city, the number of prisoners admitted, the number released and the time of each such admittance and release. Such records shall show such information separately as to

the prisoners of the Commonwealth, of each county, city or town, of the United States, and of any other state or country.

Code 1950, § 53-170; 1982, c. 636; 1991, c. 383.

§ 53.1-123. Other accounts, information and records as required by Department.

Sheriffs and jail superintendents shall keep such other accounts and records and furnish to the Department such information and reports as may be required by the Department.

Code 1950, § 53-171; 1982, c. 636; 1991, c. 383.

§ 53.1-124. Sheriffs and jail superintendents to report to the courts.

A. If requested by the judge, the sheriffs of all local jails and the jail superintendents of all regional jails of this Commonwealth shall, on the first day of each term of the circuit court, make written reports to the judge thereof, to the attorney for the Commonwealth, and to city attorneys whose duties include prosecuting certain cases, showing the number of prisoners in jail on that day. The report shall show the name, date of commitment, offense and sentence of each prisoner. The judge of such court, after examining the report, shall enter an order directing the clerk to file the same in the clerk's office of such court.

B. If requested by the chief judge of the circuit court, general district court or juvenile and domestic relations district court, the sheriffs of all local jails and the jail superintendents of all regional jails of the Commonwealth shall report semimonthly to the circuit court, general district court, and juvenile and domestic relations district court, to the attorney for the Commonwealth, and to the public defender, if any, as established in Article 3.1 (§ 19.2-163.01 et seq.) of Chapter 10 of Title 19.2, showing the number of prisoners in jail on that day awaiting trial. The report shall include the name, offense, date of commitment to jail, and amount of bail established.

C. If requested by the judge, the sheriffs of all local jails and the jail superintendents of all regional jails shall report weekly to the juvenile and domestic relations district court located within that county, city or region concerning the identity and number of juveniles kept in their jails and the length of time such juveniles have been incarcerated therein.

Code 1950, § 53-172; 1976, c. 248; 1982, c. 636; 1990, c. 934; 1991, cc. 218, 383; 2004, cc. 884, 921.

§ 53.1-125. Failure of sheriffs or jail superintendents to comply with requirements of board; filing of complaint; withholding salary.

If any sheriff or jail superintendent through his default or neglect fails to comply with the requirements of the Board in the operation and management of any jail under his control or management, the Board shall file a complaint with the circuit court of the county or city in which such jail is located, giving ten days' notice to the sheriff or jail superintendent that on a date fixed in the notice the court will conduct a hearing on the complaint. If the court is of the opinion that the complaint is justified, it shall enter an order directing the State Compensation Board to withhold approval of the payment of any further salary to the sheriff or jail superintendent until there has been compliance with specified requirements

of the Board. If the court is of the opinion that the charges are unfounded, the complaint shall be dismissed.

Code 1950, § 53-173; 1974, cc. 44, 45; 1982, c. 636; 1991, c. 383.

§ 53.1-126. Responsibility of sheriffs and jail superintendents for food, clothing and medicine.
The sheriff or jail superintendent shall purchase at prices as low as reasonably possible all foodstuffs and other provisions used in the feeding of jail prisoners and such clothing and medicine as may be necessary. Nothing herein shall be construed to require a sheriff, jail superintendent or a locality to pay for the medical treatment of an inmate for any injury, illness, or condition that existed prior to the inmate's commitment to a local or regional facility, except that medical treatment shall not be withheld for any communicable diseases, serious medical needs, or life threatening conditions. Invoices or itemized statements of account from each vendor of such foodstuffs, provisions, clothing and medicines shall be obtained by the sheriff or jail superintendent and presented for payment to the governing body of the city or county or, in the case of regional jails, the regional jail authority or, if none, that body responsible for the fiscal management of the regional jails, which shall be responsible for the payment thereof. He shall certify on each statement or invoice that the merchandise has been received and that the vendor has complied with the terms of the purchase. Such certification shall be in the following words: "I hereby certify that the merchandise or service has been received and that the terms of the purchase have been complied with on the part of the vendor. The merchandise or service has been or will be used solely for the feeding and care of prisoners confined in jail." If any county or city has a purchasing agent, the local governing body may require all such purchases to be made by or through the purchasing agent.

Code 1950, § 53-175; 1982, c. 636; 1991, c. 383; 2003, cc. 928, 1019; 2011, c. 727.

§ 53.1-127. Who may enter interior of local correctional facilities; searches of those entering.
A. Members of the local governing bodies that participate in the funding of a local correctional facility may go into the interior of that facility. Agents of the Board may go into the interior of any local correctional facility. In addition, Department of Corrections staff and state and local health department staff shall, in the performance of their duties, have access to the interior of any local correctional facility subject to the standards promulgated pursuant to subsections A and B of § 53.1-68. Attorneys shall be permitted in the interior of a local correctional facility to confer with prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved. Except for the announced or unannounced inspections authorized pursuant to subsections A and B of § 53.1-68 or a review conducted pursuant to § 53.1-69.1, the sheriff, jail administrator, or other person in charge of the facility shall prescribe the time and conditions under which attorneys and other persons may enter the local correctional facility for which he is responsible.

B. Any person seeking to enter the interior of any local 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 local correctional facility.

1982, c. 636; 1995, c. 797; 2017, c. 759.

§ 53.1-127.1. Establishment of stores in local correctional facilities.

Each sheriff who operates a correctional facility is authorized to provide for the establishment and operation of a store or commissary to deal in such articles and services as he deems proper. The net profits from the operation of such store that are generated from the inmates' accounts shall be used within the facility for educational, recreational or other purposes for the benefit of the inmates as may be prescribed by the sheriff. Any other profits may be used for the general operation of the sheriff's office. The sheriff shall be the purchasing agent in all matters involving the commissary and nonappropriated funds received from inmates. The funds from such operation of a store or commissary and from the inmate telephone services account shall be considered public funds.

1993, cc. 314, 616; 2002, c. 182; 2013, c. 91.

§ 53.1-127.2. Fees for electronic visitation and messaging with prisoners in local correctional facilities.

Each sheriff or jail superintendent who operates a correctional facility that utilizes an electronic visitation system or electronic messaging system, including Voice-over-Internet Protocol technology and web-based communication systems, for communication between prisoners and third parties is authorized to provide for the establishment and collection of a fee for the system utilized. However, no fee shall be charged for communication between prisoners and third parties within any local correctional facility or appurtenance thereto operated or controlled by the sheriff or jail superintendent.

This section does not apply to telephonic communication systems or to electronic video and audio communication systems used in judicial proceedings.

2011, c. 532; 2013, c. 449.

§ 53.1-127.3. Deferred or installment payment agreement for unpaid fees.

If a person is unable to pay in full the fees owed to the local correctional facility or regional jail pursuant to § 53.1-131.3, the sheriff or jail superintendent shall establish a deferred or installment payment agreement subject to the approval of the general district court. As a condition of every such agreement, a person who enters into a deferred or installment payment agreement shall promptly inform the sheriff or jail superintendent of any change of mailing address during the term of the agreement.

2012, c. 829; 2020, cc. 740, 741.

§ 53.1-127.4. Repealed.

Repealed by Acts 2020, cc. 740 and 741, cl. 2.

§ 53.1-127.5. Collection of fees owed; contract for collection; duties of Department of Taxation.

The sheriff or jail superintendent may (i) contract with private attorneys or private collection agencies, (ii) enter into an agreement with a local governing body, or (iii) enter into an agreement with the county or city treasurer, upon such terms and conditions as may be established by guidelines promulgated by the Board, to collect fees imposed under § 53.1-131.3. As part of such contract, private attorneys or

collection agencies shall be given access to the social security number of the person who owes the fees in order to assist in the collection effort. Any such private attorney or collection agency shall be subject to the penalties and provisions of § 18.2-186.3.

The fees of any private attorney or collection agency shall be paid on a contingency fee basis out of the proceeds of the amounts collected. However, in no event shall such attorney or collection agency receive a fee for amounts collected by the Department of Taxation under the Setoff Debt Collection Act (§ 58.1-520 et seq.). A local treasurer undertaking collection pursuant to an agreement with the sheriff or jail superintendent may collect the administrative fee authorized by § 58.1-3958.

2012, c. 829.

Article 7 - Prisoner Programs and Treatment

§ 53.1-128. Workforces and authorized work places.

The local governing body of any county, city or town may establish workforces in the county, city or town under such conditions as it may prescribe. Such workforces are authorized to work on (i) public property or works owned, leased or operated by the Commonwealth or the county, city or town; (ii) a privately operated national park on federal land; (iii) any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3) or (c)(4) and that is organized and operated exclusively for charitable or social welfare purposes whether the same is located within such county, city or town, or elsewhere; or (iv) private property (a) owned or occupied by an elderly or indigent person or persons where such property has been identified by a citizens housing advisory committee as needing rehabilitation or repair and the property owner has consented to such work or (b) classified as or used as a cemetery where such property has been abandoned and where on such property exist nuisances that have been identified by a municipal corporation for abatement or removal pursuant to § 15.2-1115 or a similar local ordinance. Every person 18 years of age or older who is convicted and confined for any violation of a local ordinance and who is confined as a punishment or for failure to pay a required fine, shall be liable to work in such workforce. Every person 18 years of age or older who is confined pending disposition of an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 or a criminal offense not listed in § 19.2-297.1 may work in such workforce on a voluntary basis with the approval of and under the supervision of the sheriff or his designee.

Code 1950, § 53-163; 1970, c. 648; 1982, c. 636; 1991, c. 580; 1997, cc. 123, 546; 2010, c. 168; 2011, c. 767; 2019, c. 199.

§ 53.1-129. Order permitting prisoners to work on state, county, city, town, certain private property or nonprofit organization property; bond of person in charge of prisoners.

The circuit court of any county or city may, by order entered of record, allow persons confined in the jail of such county or city who are awaiting disposition of, or serving sentences imposed for, misdemeanors or felonies to work on (i) state, county, city or town property, (ii) any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3) and that is organized and operated exclusively for charitable or social welfare purposes on a voluntary basis with the

consent of the county, city, town or state agency or the local public service authority or upon the request of the nonprofit organization involved, (iii) private property that is part of a community improvement project sponsored by a locality or that has structures that are found to be public nuisances pursuant to §§ 15.2-900 and 15.2-906 provided that the court has reviewed and approved the project for the purposes herein and permits the prisoners to work on such project, (iv) any private property utilized by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3), or (v) private property in any locality that meets the criteria under an ordinance adopted by such locality under § 15.2-908. The district court of any county or city may allow persons confined in the jail of such county or city who are awaiting disposition of, or serving sentences imposed for, misdemeanors to work on (a) state, county, city or town property, (b) any property owned by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3) and that is organized and operated exclusively for charitable or social welfare purposes on a voluntary basis with consent of the county, city, town or state agency or the local public service authority or upon the request of the nonprofit organization involved, (c) private property that is part of a community improvement project sponsored by a locality or that has structures that are found to be public nuisances pursuant to §§ 15.2-900 and 15.2-906 provided that the court has reviewed and approved the project for the purposes herein and permits the prisoners to work on such project, (d) any private property utilized by a nonprofit organization that is exempt from taxation under 26 U.S.C. § 501(c)(3), or (e) private property in any locality that meets the criteria under an ordinance adopted by such locality under § 15.2-908. Prisoners performing work as provided in this paragraph may receive credit on their respective sentences for the work done, whether such sentences are imposed prior or subsequent to the work done, as the court orders.

The court may, by order entered of record, require a person convicted of a felony to work on state, county, city or town property, with the consent of the county, city, town or state agency or the local public service authority involved, for such credit on his sentence as the court orders.

In the event that a person other than the sheriff or jail superintendent is designated by the court to have charge of such prisoners while so working, the court shall require a bond of the person, in an amount to be fixed by the court, conditioned upon the faithful discharge of his duties. Neither the sheriff nor the jail superintendent shall be held responsible for any acts of omission or commission on the part of such person.

Any person committed to jail upon a felony offense committed on or after January 1, 1995, who receives credit on his sentence as provided in this section shall not be entitled to good conduct credit, sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any court contrary to the provisions of Article 4 shall be deemed null and void.

Code 1950, § 53-165; 1976, c. 618; 1978, c. 609; 1982, c. 636; 1984, c. 43; 1991, c. 580; 1994, c. 269; 1997, cc. 134, 546; 1998, c. 311; 1999, cc. 277, 951, 1007; 2001, cc. 185, 196; 2003, cc. 818, 820; 2005, c. 409; 2008, c. 623; 2010, c. 132.

§ 53.1-130. Sheriffs, jail superintendents, etc., not to be interested in property where work performed; penalty.

No sheriff, jail superintendent, deputy or other jail officer shall have any prisoner work on property owned by him or by his relative, or on projects in which he is interested, nor shall any such prisoner be used for the personal gain or convenience of any sheriff or of any other individual. Any person found guilty of a violation of this section shall be guilty of a Class 1 misdemeanor.

Code 1950, § 53-166; 1970, c. 648; 1982, c. 636; 1991, c. 383.

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

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

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

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

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

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

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

1. To pay an amount to defray the cost of his keep;

2. To pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program;

3. To provide support and maintenance for his dependents or to make payments to the local department of social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance or social services as defined in § 63.2-100; or

4. To pay any fines, restitution or costs as ordered by the court.

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

B. For the purposes of this section:

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

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

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

"Work release" means full-time employment or participation in suitable career and technical education programs.

Code 1950, §§ 19-273.1, 53-166.1; 1956, c. 688; Code 1950, § 19.1-300; 1960, c. 366; 1970, c. 121; 1972, c. 145; 1973, c. 38; 1976, c. 295; 1979, c. 706; 1980, c. 566; 1982, c. 636; 1984, c. 516; 1985, c. 301; 1988, c. 397; 1989, c. 586; 1990, cc. 107, 676, 768; 2000, c. 423; 2002, cc. 747, 800; 2006, c. 792; 2020, c. 759.

§ 53.1-131.1. Provision for sentencing of person to nonconsecutive days in jail; payment to defray costs; penalty.

Any court having jurisdiction for the trial of a person charged with a misdemeanor, traffic offense, any offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or a felony that is not an act of violence as defined in § 19.2-297.1 may, for good cause, if the defendant is convicted and sentenced to confinement in jail and the active portion of the sentence remaining to be served is 45 days or less, impose the remaining time to be served on weekends or nonconsecutive days to permit the convicted defendant to retain gainful employment; however, the court shall not impose weekends or nonconsecutive days for a person convicted of a felony if the Commonwealth objects. A person sentenced pursuant to this section shall pay an amount to defray the cost of his keep, which amount shall be the actual cost of incarceration but shall not exceed that amount charged to the Compensation Board for purposes of reimbursement as provided in the general appropriation act. Such amount shall be collected by the sheriff, if he is responsible for operating a jail, or by the regional jail superintendent, and remitted by the sheriff to the treasurer of the appropriate county or city, or by the regional jail superintendent to the regional jail board or authority, solely for the purposes of defraying the costs of such weekend or nonconsecutive incarceration. The funds collected pursuant to this section shall not be used for purposes other than those provided for in this section. The assessment provided for herein shall be in addition to any other fees prescribed by law. If the defendant willfully fails to report at times specified by the court, the sentence imposed pursuant to this section shall be revoked and a straight jail sentence imposed.

If an offender who has been sentenced to nonconsecutive days by the court is in violation of the rules of the jail pursuant to § 53.1-117, the sheriff or jail administrator may require the offender to serve out a portion or the entirety of the remainder of his sentence in consecutive days. Upon revoking the offender's ability to serve his sentence on nonconsecutive days, the sheriff or jail administrator shall notify in writing the court that sentenced the offender and indicate the specific violations that led to the decision.

The time served by a person sentenced for violation of state law in a local jail, regional jail, or local jail farm pursuant to this section shall be included in the count of prisoner days reported by the Department for the purpose of apportioning state funds to local correctional facilities for operating costs in accordance with § 53.1-84.

1983, c. 172; 1984, c. 490; 1994, c. 901; 1999, c. 9; 2002, cc. 805, 831; 2003, c. 1039; 2006, c. 792; 2018, c. 535.

§ 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 may charge the offender or accused a fee for participating in the program which shall be used 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 and participating in work release shall be paid to the director or administrator after standard payroll deductions required by law. 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 fines, restitution or costs as ordered by the court;

3. 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

4. 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 Local and Regional Jails shall promulgate regulations governing the receipt of wages paid to persons participating in such programs, except programs operated under the supervision of a Department of Corrections probation and parole district office established pursuant to § 53.1-141, the withholding of payments, and the disbursement of appropriate funds. The Director shall prescribe rules governing the receipt of wages paid to persons participating in such programs operated under the supervision of a Department of Corrections probation and parole district office established pursuant to § 53.1-141, the withholding of payments, and the disbursement of appropriate funds.

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

1989, c. 476; 1990, c. 209; 1991, cc. 278, 428; 1992, c. 604; 1994, cc. 612, 659, 688, 720, 841, 945; 2000, c. 423; 2002, c. 800; 2010, c. 682; 2020, cc. 10, 759.

§ 53.1-131.3. Payment of costs associated with prisoners' keep.

Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed $3 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes; however, in the event the jail is a regional jail, funds collected from any such fee shall be retained by the regional jail. Any person jailed for an offense they are later acquitted for shall be refunded any such fees paid during their incarceration.

2003, c. 860; 2009, c. 842; 2010, c. 548.

§ 53.1-132. Furloughs from local work release programs; penalty for violations.

The director of any work release program authorized by § 53.1-131 may, subject to rules and regulations prescribed by the Board, extend the limits of confinement of any offender participating in a work release program that is subject to the director's authority to permit the offender a furlough for the purpose of visiting his home or family. If such offender is participating in a work release program under the supervision of the administrator of a regional jail and the furlough would extend the limits of confinement of the offender to a locality not served by that regional jail, then notice of the furlough shall be provided to the sheriff of such locality. Such furlough shall be for a period to be prescribed by the director, not to exceed three days. The time during which an offender is on furlough shall not be counted as time served against any sentence, and during any furlough, no earned sentence credit as defined in § 53.1-116, good conduct allowance or credits, or any other reduction of sentence shall accrue.

Any offender who, without proper authority or without just cause, fails to remain within the limits of confinement set by the director hereunder, or fails to return within the time prescribed to the place

designated by the director in granting such authority, shall be guilty of a Class 1 misdemeanor. An offender who is found guilty of a Class 1 misdemeanor in accordance with this section shall be ineligible for further participation in a work release program during his current term of confinement.

Code 1950, § 53-166.2; 1980, c. 566; 1982, c. 636; 2000, c. 423; 2003, c. 846; 2020, c. 4.

§ 53.1-133. Treatment of prisoner with contagious disease.

Upon application of the person in charge of a local correctional facility, if that application is affirmed by the physician serving such facility, a judge of a circuit court is authorized to have removed from any correctional facility within his jurisdiction any person confined therein who has contracted any contagious or infectious disease dangerous to the public health. Such persons shall be removed to some other place designated by the judge. When any person is so removed, he shall be safely kept and receive proper care and attention including medical treatment. As soon as he recovers his health, he shall be returned to the correctional facility from which he was moved, unless the term of his imprisonment has expired, in which event he shall be discharged, but not until all danger of his spreading contagion has passed. Expenses incurred under and by reason of this section shall be paid as provided by law.

Code 1950, § 53-135.2; 1979, c. 109; 1982, c. 636.

§ 53.1-133.01. Medical treatment for prisoners.

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

1994, c. 694; 2020, c. 759.

§ 53.1-133.01:1. Payment for bodily injury.

Each jail superintendent or sheriff who operates a correctional facility is authorized to establish administrative procedures according to regulations promulgated by the Board for recovering from an inmate the cost for medical treatment of a physical injury that is inflicted intentionally on any person, including the inmate himself, by the inmate. Such administrative procedures shall ensure that the inmate is afforded due process.

1997, c. 125; 2003, cc. 928, 1019.

§ 53.1-133.02. Notice to be given upon prisoner release, escape, etc.

Prior to the release, including work release, or discharge of any prisoner, and as soon as practicable following his transfer to a prison, a different jail facility, or any other correctional or detention facility, his escape, or the change of his name, the sheriff or superintendent who has custody of the prisoner shall give notice of any such occurrence, delivered by first-class mail or by telephone or both, to any victim of the offense as defined in § 19.2-11.01 who, in writing, requests notice or to any person designated in writing by the victim. The notice shall be given at least 15 days prior to release or discharge and as soon as practicable following a transfer, an escape, or a change of name. Notice shall be

given using the address and telephone number provided in writing by the victim. For the purposes of this section, "prisoner" means a person sentenced to serve more than 30 days of incarceration or detention. Such notification may be provided through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

No civil liability shall attach for a failure to give notice as provided in this section.

1995, c. 687; 2007, cc. 94, 109; 2015, c. 101.

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

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

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

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

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

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

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

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

C. The release of medical and mental health information and records to any other agency or individual shall be subject to all regulations promulgated by the State Board of Local and Regional Jails that govern confidentiality of such records. Medical and mental health information concerning a prisoner that has been exchanged pursuant to this section may be used only as provided 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.

E. Except for any information and records not subject to this section or not permitted to be disclosed pursuant to subsection B, any health care provider as defined in § 32.1-127.1:03 who has provided services within the last two years to a person committed to a local or regional correctional facility shall, upon request by the local or regional correctional facility, disclose to the local or regional correctional facility where the person is committed any information necessary to ensure the continuity of care of the person committed. Any health care provider who discloses medical and mental health information and records pursuant to this section shall be immune from civil liability resulting from such disclosure, including any liability under the federal Health Insurance Portability and Accountability Act (42 U.S.C. § 1320d et seq.), absent bad faith or malicious intent.

1997, c. 443; 2018, c. 165; 2019, cc. 702, 827; 2020, cc. 759, 836, 837.

§ 53.1-133.04. Medical and mental health treatment of prisoners incapable of giving consent.

A. The sheriff or administrator in charge of a local or regional correctional facility or his designee may petition the circuit court or any district court judge or any special justice, as defined in § 37.2-100, herein referred to as the court, of the county or city in which the prisoner is located for an order authorizing treatment of a prisoner confined in the local or regional correctional facility. Upon filing the petition, the petitioner or the court shall serve a certified copy of the petition to the person for whom treatment is sought and, if the identity and whereabouts of the person's next of kin are known, to the person's next of kin. The court shall authorize such treatment in a facility designated by the sheriff or administrator upon finding, on the basis of clear and convincing evidence, that the prisoner is incapable, either mentally or physically, of giving informed consent to such treatment; that the prisoner does not have a relevant advanced directive, guardian, or other substitute decision maker; that the proposed treatment is in the best interests of the prisoner; and that the jail has sufficient medical and nursing resources available to safely administer the treatment and respond to any adverse side effects that might arise from the treatment. The facility designated for treatment by the sheriff or administrator may be located within a local or regional correctional facility if such facility is licensed to provide the treatment authorized by the court order.

B. Prior to the court's authorization of such treatment, the court shall appoint an attorney to represent the interests of the prisoner. Evidence shall be presented concerning the prisoner's condition and proposed treatment, which evidence may, in the court's discretion and in the absence of objection by the prisoner or the prisoner's attorney, be submitted by affidavit.

C. Any order authorizing treatment pursuant to subsection A shall describe the treatment authorized and authorize generally such examinations, tests, medications, and other treatments as are in the best interests of the prisoner but may not authorize nontherapeutic sterilization, abortion, or psychosurgery. Such order shall require the licensed physician, psychiatrist, clinical psychologist, professional counselor, or clinical social worker acting within his area of expertise who is treating the prisoner to report to the court and the prisoner's attorney any change in the prisoner's condition resulting in restoration of the prisoner's capability to consent prior to completion of the authorized treatment and related services. Upon receipt of such report, the court may enter such order withdrawing or modifying its prior authorization as it deems appropriate. Any petition or order under this section may be orally presented or entered, provided that a written order is subsequently executed.

D. Prior to authorizing treatment pursuant to this section, the court shall find that there is no available person with legal authority under the Health Care Decisions Act (§ 54.1-2981 et seq.) or under other applicable law to authorize the proposed treatment.

E. Any order of a judge under subsection A may be appealed de novo within 10 days to the circuit court for the jurisdiction where the prisoner is located, and any order of a circuit court hereunder, either originally or on appeal, may be appealed within 10 days to the Court of Appeals, which shall give such appeal priority and hear the appeal as soon as possible.

F. Whenever the director of any hospital or facility reasonably believes that treatment is necessary to protect the life, health, or safety of a prisoner, such treatment may be given during the period allowed for any appeal unless prohibited by order of a court of record wherein the appeal is pending.

G. Upon the advice of a licensed physician, psychiatrist, or clinical psychologist acting within his area of expertise who has attempted to obtain consent and upon a finding of probable cause to believe that a prisoner is incapable, due to any physical or mental condition, of giving informed consent to treatment and that the medical standard of care calls for testing, observation, or other treatment within the next 12 hours to prevent death, disability, or a serious irreversible condition, the court or, if the court is unavailable, a magistrate shall issue an order authorizing temporary admission of the prisoner to a hospital or other health care facility and authorizing such testing, observation, or other treatment. Such order shall expire after a period of 12 hours unless extended by the court as part of an order authorizing treatment under subsection A.

H. Any licensed health or mental health professional or licensed facility providing services pursuant to the court's or magistrate's authorization as provided in this section shall have no liability arising out of a claim to the extent that it is based on lack of consent to such services, except with respect to injury or death resulting from gross negligence or willful and wanton misconduct. Any such professional or facility providing services with the consent of the prisoner receiving treatment shall have no liability arising out of a claim to the extent that it is based on lack of capacity to consent, except with respect to injury or death resulting from gross negligence or willful and wanton misconduct, if a court or a magistrate has denied a petition hereunder to authorize such services and such denial was based on an

affirmative finding that the prisoner was capable of making an informed decision regarding the proposed services.

I. Nothing in this section shall be deemed to limit or repeal any common law rule relating to consent for medical treatment or the right to apply or the authority conferred by any other applicable statute or regulation relating to consent.

2019, c. 809.

§ 53.1-133.05. Place of hearing on medical or mental health treatment of prisoners incapable of giving consent; fees and expenses.

A. Any hearing held by a court pursuant to § 53.1-133.04 may be held in any courtroom available within the county or city wherein the prisoner is located or any appropriate place that may be made available by the sheriff or administrator in charge of a local or regional correctional facility and approved by the judge. Nothing herein shall be construed as prohibiting holding the hearing on the grounds of a correctional facility or a hospital or a facility for the care and treatment of individuals with mental illness.

B. Any special justice, as defined in § 37.2-100, and any district court substitute judge who presides over hearings pursuant to the provisions of § 53.1-133.04 shall receive a fee as provided in § 37.2-804 for each proceeding under § 53.1-133.04 and his necessary mileage. However, if a commitment hearing under § 19.2-169.6 and the proceeding under § 53.1-133.04 are combined for hearing or are heard on the same day, only one fee shall be allowed.

C. Every physician or clinical psychologist who is not regularly employed by the Commonwealth who is required to serve as a witness for the Commonwealth in any proceeding under § 53.1-133.04 shall receive a fee as provided in § 37.2-804. Other witnesses regularly summoned before a judge shall receive such compensation for their attendance and mileage as is allowed witnesses summoned to testify before grand juries.

D. Every attorney appointed under § 53.1-133.04 shall receive a fee as provided in § 37.2-804 for each proceeding under § 53.1-133.04 for which he is appointed. However, if a commitment hearing under § 19.2-169.6 and the proceeding under § 53.1-133.04 are combined for hearing or are heard on the same day, only one fee shall be allowed.

E. Except as hereinafter provided, all expenses incurred, including the fees, attendance, and mileage aforesaid, shall be paid by the Commonwealth. Any such fees, costs, and expenses incurred in connection with a proceeding under § 53.1-133.04, when paid by the Commonwealth, shall be recoverable by the Commonwealth from the prisoner who is the subject of the examination, hearing, or proceeding or from his estate. No such fees or costs shall be recovered, however, from the prisoner or his estate when no good cause for his admission exists or when the recovery would create an undue financial hardship.

2019, c. 809.

Article 8 - JAIL INDUSTRY PROGRAMS

§ 53.1-133.1. Definition.

As used in this article unless the context requires otherwise or it is otherwise provided, the term "jail industry program" means a program established by a sheriff or jail superintendent to provide employment and wage earning opportunities for persons under his custody. The program may include the production of goods and provision of services which will be marketed outside the facility.

1992, c. 859; 1995, c. 756.

§ 53.1-133.2. Establishment of jail industry programs.

The sheriff or jail superintendent operating a local correctional facility, with the approval of the local governing body, jail farm board, or regional jail or jail farm board or regional jail authority, as the case may be, is authorized to establish a jail industry program within the facility he administers or on public property or works owned, leased or operated by the county, city, town or federal government, whether the same be located within such county, city or town or elsewhere. If elsewhere, the governing body of the locality where the proposed jail industry program is to be established shall approve the location of the program. Any such program shall be subject to the provisions of this article and shall not be established, operated, maintained or otherwise supported by state funds except as provided in § 53.1-133.6.

1992, c. 859; 1995, c. 756.

§ 53.1-133.3. Eligibility to participate.

Any person under the custody of a sheriff or jail superintendent shall be eligible to participate in the jail industry program on a voluntary basis without regard to whether that person is awaiting disposition of charges or serving a previously imposed sentence. The sheriff or jail superintendent may establish additional eligibility criteria for participation in the program.

1992, c. 859; 1995, c. 756.

§ 53.1-133.4. Participant compensation.

A. The sheriff or jail superintendent shall establish an amount to be allowed each jail industry program participant for each day of labor satisfactory to the sheriff or jail superintendent. The allowance shall be paid to the sheriff or jail superintendent or his designee. Distribution of a participant's allowance shall be in the same manner as provided for distribution of wages earned in a work release program pursuant to § 53.1-131. In addition, participants working in the jail industry program may have payroll deductions withheld and may be required by the sheriff, jail superintendent or his designee to contribute to victim restitution funds and to operating costs associated with the jail industry program. The total deductions must not total more than eighty percent of the participant's gross wages. The amount so deducted shall be deposited in the jail industries revenue fund and the sheriff, jail superintendent or his designee shall make the appropriate distributions of the money withheld. Any balance remaining at the conclusion of the participant's confinement shall be paid to the participant upon his release.

B. In addition, the sheriff or jail superintendent may establish a system of pay incentives for jail industry program participants. The system may provide for the payment of a bonus to any participant who is assigned to employment in any position of responsibility or who performs his job in an exemplary manner.

1992, c. 859; 1995, c. 756.

§ 53.1-133.5. Disposition of money collected and payment of expenses for jail industry program.
A. Any county, city or town that implements a jail industry program shall authorize the sheriff, jail superintendent or his designee to establish a separate fund for the operation of the program. This fund may be a special revenue fund with continuing authority to receive income and pay expenses associated with the jail industry program. The county, city, or regional jail authority shall audit the jail industry's special revenue fund on an annual basis.

B. The sheriff or jail superintendent shall purchase at prices as low as reasonably possible all materials or other items used in the jail industry program as may be necessary. Invoices or itemized statements of account from each vendor of such materials and other items shall be obtained by the sheriff or jail superintendent and presented to the governing body of the county or city or, in the case of a regional jail or jail farm, the regional jail authority or, if none, that body responsible for the fiscal management of the regional jail or jail farm. The local governing body may require all such purchases to be made pursuant to local purchasing regulations.

1992, c. 859; 1995, c. 756.

§ 53.1-133.6. Restriction on sale of jail industry program goods and services; print shop.
A. Articles produced or manufactured and services provided by participants in jail industry programs may be disposed of by the sheriff or jail superintendent by sale only to municipal and county agencies in Virginia and to federal, state and local public agencies within or without the Commonwealth. Except as otherwise provided, no articles produced or manufactured nor services provided by prisoners may be bought, sold or acquired by exchange on the open market.

B. The products of any printing shop in a jail industry program shall be sold only to the departments, institutions and agencies of the Commonwealth which are supported in whole or in part with funds from the state treasury and to offices or agencies of the counties, cities and towns of the Commonwealth. Such products shall not be sold on the open market.

1992, c. 859.

§ 53.1-133.7. Sale of artistic products.
Subject to such rules as he may prescribe, the sheriff or jail superintendent may permit participants in jail industry programs to sell to the public artistic products personally crafted by the participants. Such artistic products shall include, but are not limited to, paintings, pottery and leatherwork.

1992, c. 859.

§ 53.1-133.8. Purchases by agencies, localities, and certain nonprofit organizations.

Articles and services produced or manufactured by participants in jail industry programs:

1. May be purchased by all departments, institutions, and agencies of the Commonwealth that are supported in whole or in part with funds from the state treasury for their use or the use of persons whom they assist financially, provided such purchase is not in conflict with the provisions of Article 3 (§ 53.1-41 et seq.) of Chapter 2.

2. May be purchased by any county, district of any county, city, or town and by any nonprofit, volunteer emergency medical services agencies, fire departments, sheltered workshops, and community service organizations.

1992, c. 859; 2015, cc. 502, 503.

§ 53.1-133.9. Charges; advertisement and marketing.

A. The sheriff or jail superintendent, or his designee, shall establish charges for articles produced or manufactured and services provided by the jail industry program that will, in his judgment, defray the administration, operation and maintenance costs and make allowances for depreciation, return on capital and contingencies.

B. The sheriff or jail superintendent, or his designee, may advertise and market articles produced or manufactured and services provided by the jail industry program in a manner that will, in his judgment, allow maximum work opportunities for program participants while assuring that the program will be self-supporting, provided such advertising and marketing do not violate other provisions of law.

1992, c. 859.

§ 53.1-133.10. (See Editor's note) Governor to execute; form of compact.

The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact that shall be in form substantially as follows:

The compacting states solemnly agree that:

ARTICLE I. The party states, desiring by common action to efficiently utilize and provide emergency medical, dental, and psychiatric care for prisoners of local correctional facilities, declare that it is the policy of each of the party states to cooperate with one another to serve the best interests of the prisoners and of the state and local governments in the convenient and economical provision of these services. The purpose of this compact is to provide for the mutual recognition of the control and authority over prisoners during transport to and from medical, dental, and psychiatric facilities across state boundaries.

ARTICLE II. As used in this compact, unless the context clearly requires otherwise:

1. "State" means a state of the United States, the United States of America, a territory or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

2. "Sending state" means a state party to this compact in which a prisoner in need of medical, dental, or psychiatric services is incarcerated.

3. "Receiving state" means a state party to this compact in which is located a medical, dental, or psychiatric facility.

4. "Prisoner" means a male or female offender who is committed under sentence to or confined in a local correctional facility.

5. "Local correctional facility" means any penal or correctional facility or any jail, regional jail, jail farm, or other place used for the detention or incarceration of adult offenders that is owned, maintained, or operated by any political subdivision or combination of subdivisions of a state or a local government of a state.

ARTICLE III. Each party state agrees to extend all necessary authority to law-enforcement or corrections officers from a sending state while such officers have in their custody a prisoner for the purpose of escorting the prisoner to and from a medical, dental, or psychiatric facility located in the receiving state.

ARTICLE IV. This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE V. This compact shall continue in force and remain binding upon a party state until the party state has enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. No actual withdrawal shall take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE VI. The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact is held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

2013, c. 138.

Chapter 4 - PROBATION AND PAROLE

Article 1 - ADMINISTRATION GENERALLY

§ 53.1-134. Creation of Parole Board; appointment of members.

There shall be a Parole Board which shall consist of up to five members appointed by the Governor and subject to confirmation by the General Assembly, if in session when such appointment is made, and if not in session, then at its next succeeding session. At least one member of the Parole Board shall be a representative of a crime victims' organization or a victim of crime as defined in subsection B of § 19.2-11.01.

The members of the Parole Board shall serve at the pleasure of the Governor.

Code 1950, §§ 53-230, 53-231, 53-232, 53-233, 53-234, 53-235, 53-236; 1966, c. 638; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45; 1975, c. 316; 1982, c. 636; 1984, c. 584; 1997, cc. 795, 883; 2002, c. 569.

§ 53.1-135. Chairman; Vice-Chairman of Board.

The Governor shall designate one of the members so appointed as Chairman of the Board. The Board may elect one of its members as Vice-Chairman; in the absence of the Chairman, he shall have the same duties as are conferred upon the Chairman. The Chairman shall be a full-time state employee. The Governor may designate no more than two other members of the Board as full-time state employees. Members of the Board not designated full-time state employees shall be considered part-time state employees.

Code 1950, §§ 53-234; 53-235; 1966, c. 638; 1970, c. 648; 1973, c. 253; 1975, c. 316; 1978, c. 552; 1982, c. 636; 1988, c. 823; 1992, c. 144; 2002, c. 569.

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-165.1 on the basis of demonstrated maturity and rehabilitation and the lesser culpability of juvenile offenders;

3. a. Release on parole for such time and upon such terms and conditions as the Board shall prescribe, persons convicted of felonies and confined under the laws of the Commonwealth in any correctional facility in Virginia when those persons become eligible and are found suitable for parole, according to those rules adopted pursuant to subdivisions 1 and 2;

b. Establish the conditions of postrelease supervision authorized pursuant to § 18.2-10 and subsection A of § 19.2-295.2;

c. Notify by certified mail at least 21 business days prior to release on discretionary parole of any inmate convicted of a felony and sentenced to a term of 10 or more years, the attorney for the Commonwealth in the jurisdiction where the inmate was sentenced. In the case of parole granted for medical reasons, where death is imminent, the attorney for the Commonwealth may be notified by

telephone or other electronic means prior to release. Nothing in this section shall be construed to alter the obligations of the Board under § 53.1-155 for investigation prior to release;

d. Provide that in any case where a person who is released on parole or postrelease supervision 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 his parole or postrelease supervision 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;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society;

6. Make investigations and reports with respect to any commutation of sentence, pardon, reprieve or remission of fine, or penalty when requested by the Governor;

7. Publish monthly a statement regarding the action taken by the Board on the parole of prisoners. The statement shall list the name of each prisoner considered for parole and indicate whether parole was granted or denied, as well as the basis for denial of parole as described in subdivision 3 a; and

8. Ensure that each person eligible for parole receives a timely and thorough review of his suitability for release on parole, including a review of any relevant post-sentencing information. If parole is denied, the basis for the denial of parole shall be in writing and shall give specific reasons for such denial to such inmate.

Code 1950, §§ 53-238, 53-265; 1966, c. 638; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45; 1979, c. 625; 1982, c. 636; 1990, c. 538; 2000, cc. 338, 767; 2002, c. 569; 2003, c. 132; 2005, c. 657; 2006, cc. 863, 914; 2009, cc. 813, 840; 2013, c. 708; 2020, cc. 2, 529.

§ 53.1-137. Revocation hearings and subpoenas; penalty for disobeying subpoena or hindering hearing.

The Board is authorized to hold and conduct revocation hearings; to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before the Board or any representative of the Board; and to administer oaths and take testimony thereunder. The Board may authorize any member or other authorized representative of the Board to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder. If any person fails or refuses to obey any such subpoena issued by the Board or any member or other authorized representative thereof, or hinders the orderly conduct and decorum of any hearing held and

conducted by the Board or any member or other authorized representative thereof, he shall be guilty of a Class 1 misdemeanor.

Code 1950, § 53-239; 1970, c. 648; 1982, c. 636; 1985, c. 174.

§ 53.1-138. Access to prisoners; reports of prison officials.

It shall be the duty of all prison officials to grant to the members of the Board, or its properly accredited representatives, access at all reasonable times to any prisoner whom the Board has power to parole; to provide for the Board and its representatives facilities for communicating with and observing such prisoner; and to furnish to the Board such reports as the Board or the Chairman shall request. Such reports may concern the conduct and character of any prisoner in their custody and other facts deemed by the Board pertinent in determining whether such prisoner shall be paroled.

Code 1950, § 53-240; 1970, c. 648; 1973, c. 253; 1982, c. 636.

§ 53.1-139. Powers and duties of Chairman.

In addition to other powers and duties prescribed by law, the Chairman of the Board shall:

1. Preside at all meetings of the Board; cause the keeping of minutes of its proceedings and all other records required by law or by the Board incident to its functions, powers and duties;

2. Exercise supervision for the Board through probation and parole officers over prisoners released on conditional pardon as the Governor may require;

3. Sign for the Board its approval of annual reports, evaluations, requests, plans, budgets and other similar documents prepared for the Governor, other departments, and other entities; and

4. Serve as spokesman for the Board unless the Board designates another.

Code 1950, §§ 53-241, 53-265; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45; 1982, c. 636; 1984, c. 734; 1988, c. 823; 1992, c. 144.

§ 53.1-139.1. Repealed.

Repealed by Acts 1992, c. 144.

§ 53.1-140. Powers and duties of Director of Department.

The Director of the Department of Corrections shall:

1. Direct and supervise the work of all probation and parole officers employed and authorized as officers of the court pursuant to the provisions of this article and the Virginia Personnel Act (§ 2.2-2900 et seq.);

2. Carry or cause to be carried into effect all orders of the Board and all rules and regulations adopted by it pursuant to the provisions of this article;

3. Prepare and submit to the circuit courts of the Commonwealth lists of persons suitable and qualified, in his opinion, for authorization as probation and parole officers pursuant to the provisions of this article; and

4. Coordinate with the Parole Board the activities of the Department of Corrections that relate to parole.

Code 1950, § 53-241.1; 1974, cc. 44, 45; 1979, c. 700; 1981, c. 276; 1982, c. 636; 2003, c. 944.

Article 2 - STATE PROBATION AND PAROLE SERVICES

§ 53.1-141. Division into probation and parole districts.

The Director of the Department shall divide the Commonwealth into as many separate probation and parole districts as he deems necessary to carry out the purposes of this article. The Director may change the area embraced in any probation and parole district to conform to conditions and demands as they arise.

Code 1950, § 53-242; 1970, c. 648; 1974, cc. 44, 45; 1979, c. 700; 1982, c. 636; 1984, c. 514.

§ 53.1-142. Assignments of officers to districts.

There shall be at least one probation and parole officer for each probation and parole district. The Director of the Department may assign officers authorized in one district to duties in another district. However, no such transfer shall be effected without the concurrence of the affected officer. Any officer so assigned shall have the same power and authority as an officer authorized by the judge or judges of the court or courts of such other district. The Director, in consultation with the court, shall designate all supervisory staff.

Code 1950, § 53-243; 1966, c. 638; 1973, c. 253; 1974, cc. 44, 45; 1979, c. 700; 1982, c. 636; 1984, c. 514; 2003, c. 944.

§ 53.1-143. How officers authorized.

The Director shall employ officers to carry out the powers and duties prescribed in § 53.1-145 and elsewhere in this article. The Director shall submit the names of eligible officers to the judge or judges of the judicial circuit where the officer is initially assigned to be authorized to act as an officer of the court.

The judge or judges of the judicial circuit to which an officer is assigned shall authorize the officer to serve as an officer of the court to carry out the power and duties prescribed in § 53.1-145 and elsewhere in this article. When the area of a probation and parole district lies in two or more judicial circuits, the probation and parole officers shall be authorized by joint action of the judges of the several circuits. If there are more than two such judges, a majority vote shall control the authorization.

Whenever the authorization is to be made by two judges and they fail to agree within 60 days of the Director's assignment of such officer, the Director shall authorize the officer to serve the judicial circuits of the Commonwealth.

The authorization of an officer by the judicial circuit to which the officer is initially assigned shall be valid in all judicial circuits in the Commonwealth regardless of subsequent assignments.

Code 1950, § 53-244; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45; 1979, c. 700; 1982, c. 636; 1984, c. 514; 2003, c. 944.

§ 53.1-144. Term of officers.

Each probation and parole officer shall be authorized initially for a term of one year. Subsequent authorizations shall be for indefinite periods.

Code 1950, § 53-245; 1966, c. 638; 1974, cc. 44, 45; 1978, c. 595; 1979, c. 700; 1982, c. 636; 2003, c. 944.

§ 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 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 Director;

7. Have the power to carry a concealed weapon in accordance with regulations promulgated by the 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.

Code 1950, § 53-250; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45, 240; 1975, c. 630; 1976, c. 39; 1982, c. 636; 1992, cc. 188, 740; 1994, c. 935; 1994, 2nd Sp. Sess., cc. 1, 2; 1995, cc. 502, 574; 1997, c. 526; 2003, c. 944; 2006, cc. 698, 730, 863, 914; 2007, c. 528; 2009, cc. 813, 840; 2011, cc. 384, 410; 2014, cc. 674, 719; 2018, cc. 316, 671; 2019, cc. 782, 783; 2020, c. 759.

§ 53.1-146. Use of officers as to persons convicted of local violations; payment of expenses.
Upon request of the governing body of a county, city or town, the probation and parole officer shall perform the same duties and have the same powers as to persons convicted for violations of ordinances of the county, city or town as he has as to persons violating laws of the Commonwealth. The county, city or town so using the services of a probation and parole officer shall pay a pro rata part of his expenses to be arrived at by mutual agreement between the local governing body and the Department.

Code 1950, § 53-249; 1970, c. 648; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-147. Compensation; expenses.
Each probation and parole officer shall receive as compensation for his services a salary to be fixed in accordance with the standards of classification of Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2. Each officer shall also be paid necessary traveling and other expenses incurred by him in the discharge of his duties. The salary and expenses herein provided for shall be paid by the Commonwealth and no part shall be paid by or chargeable to any county or city, except as hereinafter provided.

The governing body of any county or city may add to the fixed compensation of probation and parole officers such amount as the governing body may appropriate with the total amount not to exceed fifty percent of the amount paid by the Commonwealth to probation and parole officers. No additional amount paid by a local governing body shall be chargeable to the Department of Corrections or the Parole Board, nor shall it remove or supersede any authority, control or supervision of the Department or Board.

Code 1950, §§ 53-246, 53-247; 1956, c. 316; 1966, c. 483; 1970, c. 648; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-148. Transfer of supervision from one probation officer to another.

The court placing any person on probation may transfer such person from the supervision of one probation officer to that of another probation officer. Such transfer shall be reported by the court to both probation officers and to the person on probation. A record of the transfer shall be filed with the records of the case or entered upon the records of the court.

Whenever a person placed on probation resides in a locality removed from that in which the court which placed such person on probation is situated, or whenever a person on probation desires to remove to a locality other than that in which the court is situated, the court placing such person on probation may transfer him to a probation officer regularly appointed and authorized to serve for the locality in which the probationer resides or to which he is to move. In such cases the probation officer shall send to the court desiring to make the transfer a written statement that he will exercise supervision over such person. The statement shall be approved in writing by the judge of the court to which the probation officer is attached. The probation officer shall report concerning the conduct and condition of the probationer at regular intervals to the judge of the court who placed the defendant on probation.

Code 1950, § 53-277; 1982, c. 636.

§ 53.1-149. Arrest of probationer without warrant; written statement.

Any probation officer appointed pursuant to this chapter may arrest a probationer without a warrant, or may deputize any other officer with power to arrest to do so, by a written statement setting forth that the probationer has, in the judgment of the probation officer, violated one or more of the terms or conditions upon which the probationer was released on probation. Such a written statement by a probation officer delivered to the officer in charge of any local jail or lockup shall be sufficient warrant for the detention of the probationer. Any officer deputized upon receipt of the written statement shall, in accordance with § 19.2-390, enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a warrant authorizing the arrest of the person anywhere in the Commonwealth.

Code 1950, § 53-278.5; 1962, c. 327; 1982, c. 636; 2010, c. 273.

§ 53.1-150. Contributions by persons on parole, probation, and work release.

A. Any person who has costs assessed against him pursuant to §§ 17.1-275.1, 17.1-275.2, 17.1-275.7, or § 17.1-275.8, or subsection B or C of § 16.1-69.48:1 shall be required to pay, as specified in those sections, a sentencing/supervision fee to be deposited in the general fund of the state treasury.

All fees assessed pursuant to this section shall be paid to the clerk of the sentencing court.

B. Except when the fee referenced in subsection A has been previously assessed, any person (i) who is granted parole or (ii) who participates in a work release program pursuant to the provisions of §§ 53.1-60 and 53.1-131 shall be required to pay a fee of fifty dollars as a condition of parole or work release.

Code 1950, § 53-19.40; 1981, c. 634; 1982, cc. 492, 636; 1984, c. 668; 1988, c. 824; 1990, cc. 511, 816; 1992, c. 529; 1993, c. 195; 1994, cc. 613, 638; 1994, 2nd Sp. Sess., cc. 1, 2; 1999, c. 9; 2000, c. 1040; 2002, c. 831.

§ 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 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.

1996, c. 807; 2020, c. 759.

Article 3 - PROCEDURES GOVERNING PAROLE

§ 53.1-151. Eligibility for parole.

A. Except as herein otherwise provided, every person convicted of a felony and sentenced and committed by a court under the laws of this Commonwealth to the Department of Corrections, whether or not such person is physically received at a Department of Corrections facility, or as provided for in § 19.2-308.1:

1. For the first time, shall be eligible for parole after serving one-fourth of the term of imprisonment imposed, or after serving twelve years of the term of imprisonment imposed if one-fourth of the term of imprisonment imposed is more than twelve years;

2. For the second time, shall be eligible for parole after serving one-third of the term of imprisonment imposed, or after serving thirteen years of the term of imprisonment imposed if one-third of the term of imprisonment imposed is more than thirteen years;

3. For the third time, shall be eligible for parole after serving one-half of the term of imprisonment imposed, or after serving fourteen years of the term of imprisonment imposed if one-half of the term of imprisonment imposed is more than fourteen years;

4. For the fourth or subsequent time, shall be eligible for parole after serving three-fourths of the term of imprisonment imposed, or after serving fifteen years of the term of imprisonment imposed if three-fourths of the term of imprisonment imposed is more than fifteen years.

For the purposes of subdivisions 2, 3 and 4 of subsection A and for the purposes of subsections B1 and B2, prior commitments shall include commitments to any correctional facility under the laws of any state, the District of Columbia, the United States or its territories for murder, rape, robbery, forcible sodomy, animate or inanimate object sexual penetration, aggravated sexual battery, abduction, kidnapping, burglary, felonious assault or wounding, or manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a controlled substance, if such would be a felony if committed in the Commonwealth. Only prior commitments interrupted by a person's being at liberty, or resulting from the commission of a felony while in a correctional facility of the

Commonwealth, of any other state or of the United States, shall be included in determining the number of times such person has been convicted, sentenced and committed for the purposes of subdivisions 2, 3 and 4 of subsection A. "At liberty" as used herein shall include not only freedom without any legal restraints, but shall also include release pending trial, sentencing or appeal, or release on probation or parole or escape. In the case of terms of imprisonment to be served consecutively, the total time imposed shall constitute the term of the imprisonment; in the case of terms of imprisonment to be served concurrently, the longest term imposed shall be the term of imprisonment. In any case in which a parolee commits an offense while on parole, only the sentence imposed for such offense and not the sentence or sentences or any part thereof from which he was paroled shall constitute the term of imprisonment.

The Department of Corrections shall make all reasonable efforts to determine prior convictions and commitments of each inmate for the enumerated offenses.

B. Persons sentenced to die shall not be eligible for parole. Any person sentenced to life imprisonment who escapes from a correctional facility or from any person in charge of his custody shall not be eligible for parole.

B1. Any person convicted of three separate felony offenses of (i) murder, (ii) rape or (iii) robbery by the presenting of firearms or other deadly weapon, or any combination of the offenses specified in subdivisions (i), (ii) or (iii) when such offenses were not part of a common act, transaction or scheme shall not be eligible for parole. In the event of a determination by the Department of Corrections that an individual is not eligible for parole under this subsection, the Parole Board may in its discretion, review that determination, and make a determination for parole eligibility pursuant to regulations promulgated by it for that purpose. Any determination of the Parole Board of parole eligibility thereby shall supersede any prior determination of parole ineligibility by the Department of Corrections under this subsection.

B2. Any person convicted of three separate felony offenses of manufacturing, selling, giving, distributing or possessing with the intent to manufacture, sell, give or distribute a controlled substance, when such offenses were not part of a common act, transaction or scheme, and who has been at liberty as defined in this section between each conviction, shall not be eligible for parole.

C. Any person sentenced to life imprisonment for the first time shall be eligible for parole after serving fifteen years, except that if such sentence was for a Class 1 felony violation or the first degree murder of a child under the age of eight in violation of § 18.2-32, he shall be eligible for parole after serving twenty-five years, unless he is ineligible for parole pursuant to subsection B1 or B2.

D. A person who has been sentenced to two or more life sentences, except a person to whom the provisions of subsection B1, B2, or E of this section are applicable, shall be eligible for parole after serving twenty years of imprisonment, except that if either such sentence, or both, was or were for a Class 1 felony violation, and he is not otherwise ineligible for parole pursuant to subsection B1, B2, or E of this section, he shall be eligible for parole only after serving thirty years.

E. A person convicted of an offense and sentenced to life imprisonment after being paroled from a previous life sentence shall not be eligible for parole.

E1. Any person who has been convicted 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 who has been sentenced to a term of years shall, upon a first commitment to the Department of Corrections, be eligible for parole after serving two-thirds of the term of imprisonment imposed or after serving fourteen years of the term of imprisonment imposed if two-thirds of the term of imprisonment imposed is more than fourteen years. If such person has been previously committed to the Department of Corrections, such person shall be eligible for parole after serving three-fourths of the term of imprisonment imposed or after serving fifteen years of the terms of imprisonment imposed if three-fourths of the term of imprisonment imposed is more than fifteen years.

F. If the sentence of a person convicted of a felony and sentenced to the Department is partially suspended, he shall be eligible for parole based on the portion of such sentence execution which was not suspended.

G. The eligibility time for parole as specified in subsections A, C and D of this section may be modified as provided in §§ 53.1-191, 53.1-197 and 53.1-198.

H. The time for eligibility for parole as specified in subsection D of this section shall apply only to those criminal acts committed on or after July 1, 1976.

I. The provisions of subdivisions 2, 3 and 4 of subsection A shall apply only to persons committed to the Department of Corrections on or after July 1, 1979, but such persons' convictions and commitments shall include all felony convictions and commitments without regard to the date of such convictions and commitments.

Code 1950, §§ 53-251, 53-272; 1954, c. 141; 1956, c. 342; 1958, cc. 249, 468; 1962, c. 327; 1970, c. 648; 1975, c. 244; 1976, cc. 145, 209, 425; 1977, cc. 344, 546, 570; 1979, c. 411; 1981, c. 392; 1982, cc. 270, 636; 1985, c. 555; 1987, c. 668; 1988, c. 872; 1990, cc. 220, 684; 1991, c. 423; 1993, cc. 485, 491, 907.

§ 53.1-152. Eligibility of persons sentenced for combinations of felony and misdemeanor offenses.
Every person who is convicted of a felony and also convicted of a misdemeanor and sentenced and committed for the same under the laws of this Commonwealth or of its political subdivisions shall be eligible for parole on the combination of said sentences in the same manner as provided in § 53.1-151.

Code 1950, § 53-252.1; 1954, c. 597; 1966, c. 638; 1982, c. 636.

§ 53.1-153. Eligibility of persons sentenced to jails for more than twelve months.
Persons convicted of felonies or misdemeanors who are sentenced to jails and not eligible for parole under § 53.1-152, shall be eligible for parole in the same manner as provided in § 53.1-151 when the total sentences to be served, exclusive of fines, are more than twelve months. However, a person

convicted of misdemeanors and sentenced to serve a total active sentence of more than 12 months in jail shall not be eligible for parole nor subject to the provisions of § 53.1-159 upon conviction of any offenses committed on or after July 1, 2008.

The Virginia Parole Board shall have the same powers and duties to carry out the provisions of this section as are set forth in § 53.1-136.

Code 1950, § 53-251.2; 1962, c. 326; 1970, c. 648; 1981, c. 392; 1982, c. 636; 1983, c. 509; 2008, c. 846.

§ 53.1-154. Times at which Virginia Parole Board to review cases.

The Virginia Parole Board shall by regulation divide each calendar year into such equal parts as it may deem appropriate to the efficient administration of the parole system. Unless there be reasonable cause for extension of the time within which to review and decide a case, the Board shall review and decide the case of each prisoner no later than that part of the calendar year in which he becomes eligible for parole, and at least annually thereafter, until he is released on parole or discharged, except that upon any such review the Board may schedule the next review as much as three years thereafter, provided there are ten years or more or life imprisonment remaining on the sentence in such case. Notwithstanding any other provision of this article, in the case of a parole revocation, if such person is otherwise eligible for parole, the Board shall review and decide his case no later than that part of the calendar year one year subsequent to the part of the calendar year in which he was returned to a facility as provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this section. The Board, in addition, may review the case of any prisoner eligible for parole at any other time and may review the case of any prisoner prior to that part of the year otherwise specified. In the discretion of the Board, interviews may be conducted by the Board or its representatives and may be either public or private.

Code 1950, §§ 53-252, 53-254; 1966, c. 638; 1970, c. 648; 1977, c. 34; 1982, c. 636; 1984, c. 655.

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

The Director is authorized 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.

1983, c. 378; 2020, c. 759.

§ 53.1-155. Investigation prior to release; transition assistance.

A. No person shall be released on parole by the Board until a thorough investigation has been made into the prisoner's history, physical and mental condition and character and his conduct, employment and attitude while in prison. The Board shall also determine that his release on parole will not be incompatible with the interests of society or of the prisoner. The provisions of this section shall not be applicable to persons released on parole pursuant to § 53.1-159.

B. An investigation conducted pursuant to this section shall include notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the Board oral or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a written request to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have forty-five days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least forty-five days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last twelve months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

The Department shall offer each prisoner to be released on parole or under mandatory release who has been sentenced to serve a term of imprisonment of at least three years the opportunity to

participate in a transition program within six months of such prisoner's projected or mandatory release date. The program shall include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe guidelines to govern these programs.

Code 1950, § 53-253; 1970, c. 648; 1982, c. 636; 1987, c. 668; 1992, c. 222; 1995, cc. 687, 778; 2002, c. 569; 2016, c. 208.

§ 53.1-155.1. Participation in residential community program prior to final release.

The Department may give nonviolent prisoners who have not been convicted of a violent crime and who have been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a residential community program, work release, or a community-based program approved by the Secretary of Public Safety and Homeland Security within six months of such prisoner's projected or mandatory release date. The Secretary shall prescribe guidelines to govern the residential community programs, work release, or community-based programs.

Any wages earned pursuant to this section by a prisoner may be paid to the director or administrator of the program after standard payroll deductions required by law. Distribution of such wages shall be made for the following purposes:

1. To pay an amount to defray the cost of his keep;

2. To pay travel and other such expenses made necessary by his work release, employment, or participation in a residential community program or a community-based program;

3. To provide support and maintenance for his dependents or to make payments to the local department of social services or the Commissioner of Social Services, as appropriate, on behalf of dependents who are receiving public assistance as defined in § 63.2-100; or

4. To pay any fines, restitution, or costs as ordered by the court.

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

2003, c. 850; 2014, cc. 115, 490.

§ 53.1-156. Period of parole; not counted as part of term.

The period of parole which shall be fixed by the Board may be greater than the unserved portion of the sentence actually imposed upon the paroled prisoner by the court or jury which fixed his sentence. It shall not exceed, however, the difference between the time actually served in confinement by the paroled prisoner, without regard to good conduct credit, and the maximum term established by law as punishment for the offense or offenses of which the prisoner was convicted. The time during which a parolee is at large on parole shall not be counted as service of any part of the term of imprisonment for which he was sentenced upon his conviction.

Code 1950, §§ 53-255, 53-256; 1982, c. 636; 1987, c. 668.

§ 53.1-157. Parolees or felons serving a period of postrelease supervision to comply with terms; furnishing copies.

Each parolee or felon serving a period of postrelease supervision while on parole or period of postrelease supervision shall comply with such terms and conditions as may be prescribed by the Board. When any prisoner is released on parole or postrelease period of supervision, the Board shall furnish the parolee and the probation and parole officer having supervision of the parolee or felon serving a period of postrelease supervision a copy of the terms and conditions of the parole or postrelease period of supervision and any changes which may from time to time be made therein.

Code 1950, § 53-257; 1970, c. 648; 1973, c. 253; 1982, c. 636; 2000, c. 767.

§ 53.1-158. Release of prisoner subject to parole.

The Director of the Department shall release into the custody of the Parole Board, any of its probation and parole officers or the Chairman, any prisoner subject to parole under the laws of this Commonwealth whenever directed so to do by the Parole Board or by the Chairman.

Code 1950, § 53-264; 1970, c. 648; 1973, c. 253; 1974, cc. 44, 45; 1982, c. 636.

§ 53.1-159. Mandatory release on parole.

Every person who is sentenced and committed under the laws of the Commonwealth to the Department of Corrections or as provided for in §§ 19.2-308.1, 53.1-152 or § 53.1-153 shall be released on parole by the Virginia Parole Board six months prior to his date of final release. Each person so sentenced or committed, however, shall serve a minimum of three months of his sentence prior to such a release. Persons who are so released on parole shall be subject to a minimum of six months' supervision and an additional period of parole ending on the date upon which the parolee would have served the maximum term of confinement, or any period the Board otherwise deems appropriate in accordance with § 53.1-156. Such persons shall also be subject, for the entire period of parole fixed by the Board, to such terms and conditions prescribed by the Board in accordance with § 53.1-157.

Notwithstanding the provisions of the preceding paragraph, if within thirty days of a release scheduled pursuant to this section, new information is presented to the Board which gives the Board reasonable cause to believe that the release poses a clear and present danger to the life or physical safety of any person, the Board may delay the release for up to six months to investigate the matter and to refer it to law-enforcement, mental health or other appropriate authorities for investigation and any other appropriate action by such authorities.

No person released on parole pursuant to § 53.1-136, and whose parole is subsequently revoked, shall be released on parole pursuant to this section until at least six months have elapsed from the date of the decision revoking his parole. No person released on parole pursuant to this section, whose parole is subsequently revoked, shall thereafter be released on parole pursuant to this section. Final discharge may be extended to require the prisoner to serve the full portion of the term imposed by the sentencing court which was unexpired when the prisoner was released on parole.

For purposes of this section, (i) "maximum term of confinement" means the maximum term of incarceration established by law as punishment for the offense, (ii) "mandatory release date" means that date which is six months prior to the scheduled date of release and takes into consideration good

conduct credits, and (iii) "final discharge" and "discharge from parole" mean that a prisoner is released from confinement having satisfied the full term imposed by the sentencing court without regard to good conduct credit. Nothing contained herein shall be construed to create a right or entitlement to parole.

Code 1950, § 53-251.3; 1979, c. 415; 1981, cc. 20, 392; 1982, c. 636; 1985, c. 175; 1987, c. 668; 1991, c. 410; 1994, c. 894.

§ 53.1-160. Notice to be given upon prisoner release, escape, etc.

A. Prior to the release or discharge of any prisoner, the Department shall have notice of the release or discharge delivered by first-class mail or by electronic means to the court that committed the person to the Department of Corrections and to the sheriff, chief of police, and attorney for the Commonwealth (i) of the jurisdiction in which the offense occurred, (ii) of the jurisdiction in which the person resided prior to conviction, and (iii), if different from clauses (i) and (ii), of the jurisdiction in which the person intends to reside subsequent to being released or discharged. Such notice shall include, but not be limited to, identification of the specific offense or offenses for which the prisoner had been sentenced, the term or terms of imprisonment imposed, and the date the prisoner was committed to the Department of Corrections.

The Department shall (a) have notice of the release or discharge of any prisoner delivered by first-class mail 15 days prior to any such occurrence, or by telephone if notice by first-class mail cannot be delivered 15 days prior to the occurrence; (b) give notice as soon as practicable following the transfer of any prisoner to a jail facility, a different prison facility, or any other correctional or detention facility by first-class mail or telephone; (c) give notice as soon as practicable by telephone upon the escape of a prisoner; and (d) give notice as soon as practicable by first-class mail upon the change of a prisoner's name, to any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated or to any person designated in writing by the victim. Notice shall be given using the address and telephone number provided by the victim. For the purposes of this section, "prisoner" means a person sentenced to serve more than 30 days of incarceration or detention.

B. Fifteen days prior to the release of any prisoner to an authorized work release program or release to attend a business, educational or other related community program, the Department shall give notice to (i) the attorney for the Commonwealth, (ii) the chief law-enforcement officer of the jurisdiction in which the work on release will be performed or attendance at an authorized program will be permitted, and (iii) any victim, as defined in § 19.2-11.01, of the offense for which the prisoner was incarcerated or any person designated in writing by the victim at the address or phone number provided by the victim.

Every notice to the attorney for the Commonwealth or to the chief law-enforcement officer shall include the name, address, and criminal history of the participating prisoner, and other information upon request. The transmission of information shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

C. Notification under this section may be provided to a victim as defined in § 19.2-11.01 through the Virginia Statewide VINE (Victim Information and Notification Everyday) System or other similar electronic or automated system.

No civil liability shall attach for the failure to give notice as provided in this section.

Code 1950, § 53-265.1; 1980, c. 515; 1982, c. 636; 1984, c. 155; 1989, cc. 525, 652; 1993, c. 189; 1995, c. 687; 2007, cc. 94, 109; 2013, cc. 162, 209; 2015, c. 101.

§ 53.1-160.1. Department to give notice of Sex Offender and Crimes Against Minors Registry requirements to certain prisoners.

A. Prior to the release or discharge of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, the Department shall give notice to the prisoner of his duty to register with the State Police. A person required to register shall register, submit to be photographed as part of the registration, and provide information regarding place of employment, if available, to the Department. The Department shall also obtain from that person all necessary registration information, including fingerprints and photographs of a type and kind approved by the Department of State Police, inform the person of his duties regarding reregistration and change of address, and inform the person of his duty to register. The Department shall forward the registration information to the Department of State Police on the date of the prisoner's release or discharge.

B. Whenever a person required to register has failed to comply with the provisions of subsection A, the Department shall promptly investigate or request the State Police promptly investigate and, if there is probable cause to believe a violation has occurred, obtain a warrant or assist in obtaining an indictment charging a violation of § 18.2-472.1 in the jurisdiction in which the person was released or discharged. The Department shall notify the State Police forthwith of such actions taken pursuant to this section.

C. The Department shall notify the State Police immediately upon discovering the escape of any prisoner for whom registration with the Sex Offender and Crimes Against Minors Registry is required pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1.

1994, c. 362; 1997, c. 747; 2003, c. 584; 2006, cc. 857, 914; 2010, c. 858.

§ 53.1-161. Arrest and return of parolee or felon serving a period of postrelease supervision; warrant; release pending adjudication of violation.

The Chairman or any member of the Board may at any time upon information or a showing of a violation or a probable violation by any parolee or felon serving a period of postrelease supervision of any of the terms or conditions upon which he was released on parole or postrelease period of supervision, issue or cause to be issued, a warrant for the arrest and return of the parolee or felon serving a period of postrelease supervision to the institution from which he was paroled, or to any other correctional facility which may be designated by the Chairman or member. However, a determination of whether a parolee or felon serving a period of postrelease supervision returned to a correctional facility pursuant

to this section shall be returned to a state or local correctional facility shall be made based on the length of the parolee's original sentence as set forth in § 53.1-20 or the period of postrelease supervision as set at sentencing. Each such warrant shall authorize all officers named therein to arrest and return the parolee to actual custody in the facility from which he was paroled, or to any other facility designated by the Chairman or member.

In any case in which the parolee or felon serving a period of postrelease supervision is charged with the violation of any law, the violation of which caused the issuance of such warrant, upon request of the parolee or his attorney, the Chairman or member shall as soon as practicable consider all the circumstances surrounding the allegations of such violation, including the probability of conviction thereof, and may, after such consideration, release the parolee, pending adjudication of the violation charged.

Code 1950, § 53-258; 1970, c. 648; 1973, c. 253; 1976, c. 45; 1978, c. 227; 1982, c. 636; 1990, cc. 676, 768; 2000, c. 767.

§ 53.1-162. Arrest of parolee or felon serving a period of postrelease supervision without warrant; written statement.

Any probation and parole officer may arrest a parolee or felon serving a period of postrelease supervision without a warrant or may deputize any other officer with power of arrest to do so by a written statement setting forth that the parolee or felon serving a period of postrelease supervision has, in the judgment of the probation and parole officer, violated one or more of the terms or conditions of his parole or postrelease period of supervision. Such a written statement by a probation and parole officer delivered to the officer in charge of any state or local correctional facility shall be sufficient warrant for the detention of the parolee or felon serving a period of postrelease supervision. Any officer deputized upon receipt of the written statement shall, in accordance with § 19.2-390, enter, or cause to be entered, the person's name and other appropriate information required by the Department of State Police into the "information systems" known as the Virginia Criminal Information Network (VCIN), established and maintained by the Department pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52. Such information shall be deemed a warrant authorizing the arrest of the person anywhere in the Commonwealth.

Code 1950, § 53-259; 1982, c. 636; 2000, c. 767; 2010, c. 273.

§ 53.1-163. Parolee considered as escapee after issuance of warrant.

Any parolee for whose arrest a warrant has been issued by the Board or by the Chairman shall after the issuance of the warrant be treated as an escaped prisoner. The time from the issuing of such warrant to the date of his arrest shall not be counted as any part of the time to be served under his sentence.

Code 1950, § 53-260; 1970, c. 648; 1973, c. 253; 1982, c. 636.

§ 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 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.

Code 1950, § 53-261; 1970, c. 648; 1974, cc. 44, 45; 1982, c. 636; 2000, c. 767; 2020, c. 759.

§ 53.1-165. Revocation of parole or postrelease supervision; hearing; procedure for parolee or felon serving period of postrelease supervision in another state; appointment of attorney.

A. Whenever any parolee or felon serving a period of postrelease supervision is arrested and recommitted as provided herein, a preliminary hearing to determine probable cause that such parolee has violated one or more of the terms or conditions upon which he was released on parole or postrelease period of supervision shall be held by any hearing officer who has been designated as such by the Director of the Department to conduct such hearings. However, if a nolle prosequi is to be entered in a case where a parole violation is alleged, no preliminary hearing shall be required.

Upon request of the hearing officer, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of such jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in any proceedings held before him. Each attorney so appointed shall be available to serve upon request of the hearing officer. The term of each attorney's appointment shall continue until such time as a successor may be appointed. A hearing officer shall be authorized to issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents before him and to administer oaths and to take testimony thereunder.

Upon a finding of probable cause by the hearing officer, the Board or its authorized representative shall conduct a hearing, consider the case and act with reference thereto within a reasonable time thereafter. Upon request of the Board, the attorney for the Commonwealth of the jurisdiction within which such hearings are to be held shall request the circuit court of that jurisdiction to appoint one or more discreet attorneys-at-law to represent parolees in proceedings held or to be held before the Board. Each attorney shall be available to serve upon request of the Board. The term of each attorney's appointment shall continue until such time as a successor may be appointed. The Board, in its discretion, may revoke the parole and order the reincarceration of the prisoner for the unserved portion of the term of imprisonment originally imposed upon him, or it may reinstate the parole either upon such terms and conditions as were originally prescribed, or as may be prescribed in addition thereto or in lieu thereof. When a parole violation is based on a new felony conviction for which the individual has been sentenced to two or more years, excluding any time of said sentence which has been suspended, any individual Board member, so authorized by the Board, may after such hearing revoke the individual's parole as otherwise provided herein.

Upon revocation of parole for any felony offense, the Board or its authorized representative shall order that the Department of Corrections take fingerprints and a photograph of the person for each offense

and transmit such information to the Central Criminal Records Exchange pursuant to subsection D of § 19.2-390.

B. In cases in which a parolee or felon serving a period of postrelease supervision is in another state, any hearing officer who has been designated as such by the Director of the Department may be sent to that state to conduct a preliminary hearing to determine probable cause that the parolee has violated one or more of the terms and conditions upon which he was released upon parole.

C. Any attorney-at-law appointed pursuant to this section shall be paid as directed by the court making the appointment, from funds appropriated for court costs and expenses, reasonable compensation on an hourly basis and necessary expenses, based upon a report to be furnished to it by such attorney. In the event an attorney-at-law is appointed in another state, he shall be paid out of funds appropriated to the Department.

Code 1950, § 53-262; 1970, c. 648; 1975, c. 292; 1979, cc. 700, 703; 1982, c. 636; 1985, c. 174; 1986, c. 433; 2000, c. 767; 2019, cc. 782, 783.

§ 53.1-165.1. Limitation on the application of parole statutes.

A. The provisions of this article, except §§ 53.1-160 and 53.1-160.1, shall not apply to any sentence imposed or to any prisoner incarcerated upon a conviction for a felony offense committed on or after January 1, 1995. Any person sentenced to a term of incarceration for a felony offense committed on or after January 1, 1995, shall not be eligible for parole upon that offense.

B. The provisions of this article shall apply to any person who was sentenced by a jury prior to June 9, 2000, for any felony offense committed on or after January 1, 1995, and who remained incarcerated for such offense on July 1, 2020, other than (i) a Class 1 felony or (ii) any of the following felony offenses where the victim was a minor: (a) rape in violation of § 18.2-61; (b) forcible sodomy in violation of § 18.2-67.1; (c) object sexual penetration in violation of § 18.2-67.2; (d) aggravated sexual battery in violation of § 18.2-67.3; (e) an attempt to commit a violation of clause (a), (b), (c), or (d); or (f) carnal knowledge in violation of § 18.2-63, 18.2-64.1, or 18.2-64.2.

C. The Parole Board shall establish procedures for consideration of parole of persons entitled under subsection B consistent with the provisions of § 53.1-154.

D. Any person who meets eligibility criteria for parole under subsection B and pursuant to § 53.1-151 as of July 1, 2020, shall be scheduled for a parole interview no later than July 1, 2021, allowing for extension of time for reasonable cause.

E. Notwithstanding the provisions of subsection A or any other provision of this article to the contrary, any person sentenced to a term of life imprisonment for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentence shall be eligible for parole and any person who has active sentences that total more than 20 years for a single felony or multiple felonies committed while the person was a juvenile and who has served at least 20 years of such sentences shall be eligible for parole. The Board shall review and decide the case of

each prisoner who is eligible for parole in accordance with § 53.1-154 and rules adopted pursuant to subdivision 2 of § 53.1-136.

1994, 2nd Sp. Sess., cc. 1, 2; 2020, cc. 2, 529, 1200, 1272.

Article 4 - UNIFORM ACT FOR OUT-OF-STATE PAROLEE SUPERVISION

§ 53.1-166. Governor to execute compact.

The Governor is authorized and directed to execute a compact governing the out-of-state supervision of parolees on behalf of the Commonwealth of Virginia with any state or states of the United States legally joining therein.

Code 1950, § 53-288; 1982, c. 636.

§ 53.1-167. Form of compact.

The form of the compact shall be substantially as follows:

A compact entered into by and among the contracting states, signatures hereto, with the consent of the Congress of the United States of America, granted by an act entitled "an act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

1. That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state"), while on probation or parole, if:

a. Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

b. Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this compact, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

2. That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

3. That duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state; provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such state a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

4. That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

5. That the Governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

6. That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

7. That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto.

Code 1950, § 53-289; 1982, c. 636.

Article 5 - VIRGINIA MODEL INTERSTATE PAROLE AND PROBATION HEARINGS ACT

§ 53.1-168. Procedure when reincarceration of out-of-state parolee or probationer should be considered.

When supervision of a parolee or probationer is being administered by this Commonwealth pursuant to Article 4 (§ 53.1-166 et seq.) of this chapter and such parolee or probationer is arrested pursuant to the provisions of § 53.1-162 or upon a warrant issued by the state where he was paroled or placed on probation and charged with violation of the terms or conditions of parole or probation, a preliminary hearing at or near the site of the alleged violation may be held in accordance with this article. The purpose of such hearing shall be to determine whether there is probable cause to believe that the parolee or probationer has committed a violation of a condition of parole or probation.

Code 1950, § 53-290.1; 1975, c. 39; 1977, c. 106; 1978, c. 341; 1982, c. 636.

§ 53.1-169. Who may hold hearings; procedures therefor.

A. Any hearing held pursuant to this article may be before the person or persons designated by the compact administrator of this Commonwealth or his designee to hold preliminary hearings involving alleged parole or probation violations. No hearing officer, however, shall be the person or the direct supervisor of the person making the allegation of violation.

B. The compact administrator of this Commonwealth or his designee shall establish a procedure for the administrative hearings held pursuant to this article.

Code 1950, § 53-290.2; 1975, c. 39; 1977, c. 106; 1982, c. 636.

§ 53.1-170. Rights of parolee or probationer at hearing.

With respect to any hearing held pursuant to this article, the parolee or probationer:

1. Shall have reasonable notice in writing of the nature and content of the allegations made, including notice that its purpose is to determine whether there is probable cause to believe that he has committed a violation of a condition of parole or probation;

2. Shall be permitted to consult with any persons whose assistance he reasonably desires, prior to the hearing;

3. Shall have the right to confront and examine any person who has made allegations or given evidence against him, unless the hearing officer determines that such confrontation would present a substantial present or subsequent danger of harm to such person;

4. May admit, deny or explain the violation alleged and may present proof, including affidavits and other evidence, in support of his contentions.

Code 1950, § 53-290.3; 1975, c. 39; 1982, c. 636.

§ 53.1-171. Record of hearing.

A record of the hearing held pursuant to this article shall be made and preserved.

Code 1950, § 53-290.4; 1975, c. 39; 1982, c. 636.

§ 53.1-172. Hearings for parolees, probationers or felons serving a period of postrelease supervision being supervised in another state.

In any case of alleged parole, postrelease period of supervision, or probation violation by a person being supervised in another state pursuant to the Interstate Compact for the Supervision of Adult Offenders, any appropriate judicial or administrative authority in another state, upon request by the compact administrator of this Commonwealth or his designee, is authorized to hold a hearing on the alleged violation, which hearing shall be substantially similar to the hearing required by this article. Upon receipt of the record of a parole, postrelease period of supervision, or probation violation hearing held in another state pursuant to a statute substantially similar to this article, such record shall be conclusive and shall not be reviewable within or by this Commonwealth.

Code 1950, § 53-290.5; 1975, c. 39; 1977, c. 106; 1982, c. 636; 2000, c. 767; 2004, c. 407.

§ 53.1-173. Preliminary hearings for out-of-state parolees in Virginia.

In any case in which any person released on parole from another state is present in Virginia, if such person is not present in Virginia pursuant to the provisions of Article 4 (§ 53.1-166 et seq.), upon request by the duly constituted judicial or administrative authorities of such other state, the compact administrator of Virginia or his designee shall cause to be conducted a preliminary hearing to determine probable cause for violation of conditions of parole. Such preliminary hearing shall be substantially similar to the hearing provided for in §§ 53.1-168 through 53.1-172.

Code 1950, § 53-290.7; 1975, c. 39; 1977, c. 106; 1982, c. 636.

§ 53.1-174. Preliminary hearings by other states.

In any case in which any person placed on parole or postrelease period of supervision by Virginia is present in another state, if such person is not present in such other state pursuant to the provisions of Article 6 (§ 53.1-176.1 et seq.) of Chapter 4 of this title, upon request by the compact administrator of Virginia or his designee, the appropriate judicial or administrative authorities of such other state in which such person is present, having jurisdiction to conduct preliminary hearings to determine probable cause for violation of conditions of parole or postrelease period of supervision, shall cause to be conducted a preliminary hearing to determine probable cause for violation of conditions of parole. Such preliminary hearing shall be substantially similar to the hearing provided for in §§ 53.1-168 through 53.1-172. A decision thereon shall be conclusive and shall not be reviewable within or by Virginia.

Code 1950, § 53-290.8; 1975, c. 39; 1977, c. 106; 1982, c. 636; 2000, c. 767; 2004, c. 407.

§ 53.1-175. Revocation of parole by Virginia.

If probable cause be found that a parolee present in Virginia has violated one or more of the terms and conditions of parole, upon request from the appropriate judicial or administrative authorities of the state from which he was paroled, the Virginia Parole Board is hereby authorized to determine whether there has been a violation of the terms and conditions of parole, and if so, whether such parole should be revoked. The decision thereon of Virginia shall be conclusive and shall not be reviewable within or by such other state.

Code 1950, § 53-290.9; 1975, c. 39; 1977, c. 106; 1982, c. 636.

§ 53.1-176. Revocation of parole by other states.

If probable cause be found that a parolee from Virginia has violated one or more of the terms and conditions of his parole, upon request by the Virginia Parole Board, the appropriate judicial or administrative authority of another state in which a parolee is present having the authority to revoke a parole is hereby authorized to determine whether there has been a violation of the terms and conditions of parole and, if so, whether such parole should be revoked. The decision thereon of such authorities of such other state shall be conclusive and shall not be reviewable within or by Virginia.

Code 1950, § 53-290.10; 1975, c. 39; 1977, c. 106; 1982, c. 636.

Article 6 - THE INTERSTATE COMPACT FOR THE SUPERVISION OF ADULT OFFENDERS

§ 53.1-176.1. Enactment of the Interstate Compact for the Supervision of Adult Offenders.

WHEREAS, the Interstate Compact for the Supervision of Parolees and Probationers was established in 1937 and is the earliest corrections "compact" established among the states and has not been amended since its adoption more than 65 years ago; and

WHEREAS, that Compact is the only vehicle for the controlled movement of adult parolees and probationers across state lines, and it currently has jurisdiction over more than a quarter of a million offenders; and

WHEREAS, the complexities of that Compact have become more difficult to administer, and many jurisdictions have expanded supervision expectations to include currently unregulated practices such as victim input, victim notification requirements and sex offender registration; and

WHEREAS, after hearings, national surveys, and a detailed study by a task force appointed by the National Institute of Corrections, the overwhelming recommendation has been to amend the document to bring about an effective management capacity that addresses public safety concerns and offender accountability; and

WHEREAS, upon the adoption of this Interstate Compact for Adult Offender Supervision, it is the intention of the General Assembly to repeal the previous interstate compact for the supervision of parolees and probationers on the effective date of this Compact; now, therefore,

The General Assembly enacts the Interstate Compact for the Supervision of Adult Offenders as set out in § 53.1-176.2.

2004, c. 407.

§ 53.1-176.2. Short title; Governor to execute; form of compact.

This article may be cited as "The Interstate Compact for the Supervision of Adult Offenders." The Governor shall execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact that shall be in form substantially as follows:

ARTICLE I.

PURPOSE.

The Compacting States to this Interstate Compact recognize that each state is responsible for the supervision of adult offenders in the community who are authorized pursuant to the Bylaws and Rules of this compact to travel across state lines both to and from each Compacting State in such a manner as to track the location of offenders, transfer supervision authority in an orderly and efficient manner, and when necessary return offenders to the originating jurisdictions. The Compacting States also recognize that Congress, by enacting the Crime Control Act, 4 U.S.C. § 112 (1965), has authorized and encouraged compacts for cooperative efforts and mutual assistance in the prevention of crime.

It is the purpose of this Compact and the Interstate Commission created hereunder, through means of joint and cooperative action among the Compacting States: to provide the framework for the promotion of public safety and protect the rights of victims through the control and regulation of the interstate movement of offenders in the community; to provide for the effective tracking, supervision, and rehabilitation of these offenders by the sending and receiving states; and to equitably distribute the costs, benefits and obligations of the Compact among the Compacting States. In addition, this Compact will: create an Interstate Commission, which will establish uniform procedures to manage the movement between states of adults placed under community supervision and released to the community under the jurisdiction of courts, paroling authorities, corrections or other criminal justice agencies and which will promulgate rules to achieve the purpose of this Compact; ensure an opportunity for input and timely notice to victims and to jurisdictions where defined offenders are authorized to travel or to relocate across state lines; establish a system of uniform data collection, access to information on active cases by authorized criminal justice officials, and regular reporting of Compact activities to heads of State Councils, state executive, judicial, and legislative branches and criminal justice administrators; monitor compliance with rules governing interstate movement of offenders and initiate interventions to address and correct noncompliance; and coordinate training and education regarding regulations of interstate movement of offenders for officials involved in such activity.

The Compacting States recognize that there is no "right" of any offender to live in another state and that duly accredited officers of a sending state may at all times enter a receiving state and there apprehend and retake any offender under supervision subject to the provisions of this Compact and the Bylaws and Rules promulgated hereunder. It is the policy of the Compacting States that the activities conducted by the Interstate Commission created herein are the formation of public policies and are therefore public business.

ARTICLE II.

DEFINITIONS.

As used in this Compact, unless the context clearly requires a different construction:

1. "Adult" means both individuals legally classified as adults and juveniles treated as adults by court order, statute, or operation of law.

2. "Bylaws" means those bylaws established by the Interstate Commission for its governance, or for directing or controlling the Interstate Commission's actions or conduct.

3. "Compact Administrator" means the individual in each compacting state appointed pursuant to the terms of this Compact responsible for the administration and management of the state's supervision and transfer of offenders subject to the terms of this Compact, the rules adopted by the Interstate Commission and policies adopted by the State Council under this Compact.

4. "Compacting State" means any state that has enacted the enabling legislation for this Compact.

5. "Commissioner" means the voting representative of each Compacting State appointed pursuant to Article III of this Compact.

6. "Interstate Commission" means the Interstate Commission for Adult Offender Supervision established by this Compact.

7. "Member" means the Commissioner of a Compacting State or designee, who shall be a person officially connected with the Commissioner.

8. "Noncompacting State" means any State that has not enacted the enabling legislation for this Compact.

9. "Offender" means an adult placed under, or subject to, supervision as the result of the commission of a criminal offense and released to the community under the jurisdiction of courts, paroling authorities, corrections, or other criminal justice agencies.

10. "Person" means any individual, corporation, business enterprise, or other legal entity, either public or private.

11. "Rules" means acts of the Interstate Commission, duly promulgated pursuant to Article VIII of this Compact, substantially affecting interested parties in addition to the Interstate Commission, which shall have the force and effect of law in the Compacting States.

12. "State" means a state of the United States, the District of Columbia and any other territorial possessions of the United States.

13. "State Council" means the resident members of the State Council for Interstate Adult Offender Supervision created by each State under Article III of this Compact.

ARTICLE III.

THE COMPACT COMMISSION.

The Compacting States hereby create the "Interstate Commission for Adult Offender Supervision." The Interstate Commission shall be a body corporate and joint agency of the Compacting States. The Interstate Commission shall have all the responsibilities, powers and duties set forth herein, including the power to sue and be sued, and such additional powers as may be conferred upon it by subsequent action of the respective legislatures of the Compacting States in accordance with the terms of this Compact.

The Interstate Commission shall consist of Commissioners selected and appointed by resident members of a State Council for Interstate Adult Offender Supervision for each State. In addition to the Commissioners who are the voting representatives of each State, the Interstate Commission shall include individuals who are not Commissioners but who are members of interested organizations. Such noncommissioner members must include a member of the national organizations of governors, legislators, state chief justices, attorneys general and crime victims. All noncommissioner members of the Inter-

state Commission shall be ex officio (nonvoting) members. The Interstate Commission may provide in its Bylaws for such additional, ex officio, nonvoting members as it deems necessary.

Each Compacting State represented at any meeting of the Interstate Commission is entitled to one vote. A majority of the Compacting States shall constitute a quorum for the transaction of business, unless a larger quorum is required by the Bylaws of the Interstate Commission. The Interstate Commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of 27 or more Compacting States, shall call additional meetings. Public notice shall be given of all meetings, and meetings shall be open to the public.

The Interstate Commission shall establish an Executive Committee, which shall include commission officers, members and others as shall be determined by the Bylaws. The Executive Committee shall have the power to act on behalf of the Interstate Commission during periods when the Interstate Commission is not in session, with the exception of rulemaking or amendment to the Compact or both. The Executive Committee oversees the day-to-day activities managed by the Executive Director and Interstate Commission staff; administers enforcement and compliance with the provisions of the Compact, its Bylaws and as directed by the Interstate Commission and performs other duties as directed by Commission or set forth in the Bylaws.

ARTICLE IV.

THE STATE COUNCIL.

Each member state shall create a State Council for Interstate Adult Offender Supervision, which shall be responsible for the appointment of the Commissioner who shall serve on the Interstate Commission from that state. Each State Council shall appoint as its Commissioner the Compact Administrator from that state to serve on the Interstate Commission in such capacity under or pursuant to applicable law of the member state. While each member state may determine the membership of its own State Council, its membership must include at least one representative from the legislative, judicial, and executive branches of government, victims' groups and compact administrators. Each Compacting State retains the right to determine the qualifications of the Compact Administrator who shall be appointed by the State Council or by the Governor in consultation with the Legislature and the Judiciary. In addition to appointment of its Commissioner to the national Interstate Commission, each State Council shall exercise oversight and advocacy concerning its participation in Interstate Commission activities and other duties as may be determined by each member state including but not limited to, development of policy concerning operations and procedures of the Compact within that state.

ARTICLE V.

POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall have the following powers:

1. To adopt the seal and suitable Bylaws governing the management and operation of the Interstate Commission.

2. To promulgate Rules, which shall have the force and effect of statutory law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact.

3. To oversee, supervise and coordinate the interstate movement of offenders subject to the terms of this Compact and any Bylaws adopted and Rules promulgated by the Compact Commission.

4. To enforce compliance with Compact provisions, Interstate Commission Rules, and Bylaws, using all necessary and proper means, including but not limited to, the use of judicial process.

5. To establish and maintain offices.

6. To purchase and maintain insurance and bonds.

7. To borrow, accept, or contract for services of personnel, including, but not limited to, members and their staffs.

8. To establish and appoint committees and hire staff that it deems necessary for the carrying out of its functions including, but not limited to, an executive committee as required by Article III, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

9. To elect or appoint such officers, attorneys, employees, agents, consultants, and to fix their compensation, define their duties and determine their qualifications; and to establish the Interstate Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation, and qualifications of personnel.

10. To accept any and all donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of same.

11. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal, or mixed.

12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

13. To establish a budget and make expenditures and levy dues as provided in Article X of this Compact.

14. To sue and be sued.

15. To provide for dispute resolution among Compacting States.

16. To perform such functions as may be necessary or appropriate to achieve the purposes of this Compact.

17. To report annually to the legislatures, governors, judiciary, and State Councils of the Compacting States concerning the activities of the Interstate Commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

18. To coordinate education, training and public awareness regarding the interstate movement of offenders for officials involved in such activity.

19. To establish uniform standards for the reporting, collecting, and exchanging of data.

ARTICLE VI.

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

Section A. Bylaws.

The Interstate Commission shall, by a majority of the members, within 12 months of the first Interstate Commission meeting, adopt Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the Compact, including, but not limited to:

1. Establishing the fiscal year of the Interstate Commission;

2. Establishing an executive committee and such other committees as may be necessary;

3. Providing reasonable standards and procedures: (i) for the establishment of committees and (ii) governing any general or specific delegation of any authority or function of the Interstate Commission;

4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;

5. Establishing the titles and responsibilities of the officers of the Interstate Commission;

6. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Interstate Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Interstate Commission;

7. Providing a mechanism for winding up the operations of the Interstate Commission and the equitable return of any surplus funds that may exist upon the termination of the Compact after the payment or reserving of all of its debts and obligations or both;

8. Providing transition rules for "start up" administration of the Compact; and

9. Establishing standards and procedures for compliance and technical assistance in carrying out the Compact.

Section B. Officers and Staff.

The Interstate Commission shall, by a majority of the Members, elect from among its Members a chairperson and a vice chairperson, each of whom shall have such authorities and duties as may be specified in the Bylaws. The chairperson or, in his absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission: provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for any actual and necessary costs and expenses

incurred by them in the performance of their duties and responsibilities as officers of the Interstate Commission.

The Interstate Commission shall, through its executive committee, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, and hire and supervise such other staff as may be authorized by the Interstate Commission, but shall not be a member.

Section C. Corporate Records of the Interstate Commission.

The Interstate Commission shall maintain its corporate books and records in accordance with the Bylaws.

Section D. Qualified Immunity, Defense and Indemnification.

The Members, officers, executive director and employees of the Interstate Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused or arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of any such person. The Interstate Commission shall defend the Commissioner of a Compacting State, or his representatives or employees, or the Interstate Commission's representatives or employees, in any civil action seeking to impose liability, arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from intentional wrongdoing on the part of such person.

The Interstate Commission shall indemnify and hold the Commissioner of a Compacting State, the appointed designee or employees, or the Interstate Commission's representatives or employees, harmless in the amount of any settlement or judgment obtained against such persons arising out of any actual or alleged act, error or omission that occurred within the scope of Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties or responsibilities; provided, that the actual or alleged act, error or omission did not result from gross negligence or intentional wrongdoing on the part of such person.

ARTICLE VII.

ACTIVITIES OF THE INTERSTATE COMMISSION.

The Interstate Commission shall meet and take such actions as are consistent with the provisions of this Compact. Except as otherwise provided in this Compact and unless a greater percentage is

required by the Bylaws, in order to constitute an act of the Interstate Commission, such act shall have been taken at a meeting of the Interstate Commission and shall have received an affirmative vote of a majority of the Members present.

Each Member of the Interstate Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Interstate Commission. A Member shall vote in person on behalf of the State and shall not delegate a vote to another member State. However, a State Council shall appoint another authorized representative, in the absence of the Commissioner from that State, to case a vote on behalf of the member State at a specified meeting. The Bylaws may provide for Members' participation in meetings by telephone or other means of telecommunication or electronic communication. Any voting conducted by telephone, or other means of telecommunication or electronic communication shall be subject to the same quorum requirements of meetings where Members are present in person.

The Interstate Commission shall meet at least once during each calendar year. The chairperson of the Interstate Commission may call additional meetings at any time and, upon the request of a majority of the Members, shall call additional meetings.

The Interstate Commission's Bylaws shall establish conditions and procedures under which the Interstate Commission shall make its information and official records available to the public for inspection or copying. The Interstate Commission may exempt from disclosure any information or official records to the extent they would adversely affect personal privacy rights or proprietary interests. In promulgating such Rules, the Interstate Commission may make available to law enforcement agencies records and information otherwise exempt from disclosure, and may enter into agreements with law-enforcement agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

Public notice shall be given of all meetings, and all meetings shall be open to the public, except as set forth in the Rules or as otherwise provided in the Compact. The Interstate Commission shall promulgate Rules consistent with the principles contained in the "Government in Sunshine Act," 5 U.S.C. § 552b, as may be amended. The Interstate Commission and any of its committees may close a meeting to the public where it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by statute;

3. Disclose trade secrets or commercial or financial information that is privileged or confidential;

4. Involve accusing any person of a crime, or formally censuring any person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigatory records compiled for law-enforcement purposes;

7. Disclose information contained in or related to examination, operating or condition reports prepared by, or on behalf of or for the use of, the Interstate Commission with respect to a regulated entity for the purpose of regulation or supervision of such entity;

8. Disclose information, the premature disclosure of which would significantly endanger the life of a person or the stability of a regulated entity; and

9. Specifically relate to the Interstate Commission's issuance of a subpoena, or its participation in a civil action or proceeding.

For every meeting closed pursuant to this provision, the Interstate Commission's chief legal officer shall publicly certify that, in his opinion, the meeting may be closed to the public, and shall reference each relevant exemptive provision. The Interstate Commission shall keep minutes that shall fully and clearly describe all matters discussed in any meeting and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any roll call vote (reflected in the vote of each Member on the question). All documents considered in connection with any action shall be identified in such minutes.

The Interstate Commission shall collect standardized data concerning the interstate movement of offenders as directed through its Bylaws and Rules, which shall specify the data to be collected, the means of collection and data exchange and reporting requirements.

ARTICLE VIII.

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

The Interstate Commission shall promulgate Rules in order to effectively and efficiently achieve the purposes of the Compact including transition rules governing administration of the Compact during the period in which it is being considered and enacted by the States.

Rulemaking shall occur pursuant to the criteria set forth in this article and the Bylaws and Rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the federal Administrative Procedure Act, 5 U.S.C.S. § 551 et seq., and the Federal Advisory Committee Act, 5 U.S.C.S. app. 2, § 1 et seq., as may be amended (hereinafter APA). All Rules and amendments shall become binding as of the date specified in each Rule or amendment.

If a majority of the legislatures of the Compacting States rejects a Rule, by enactment of a statute or resolution in the same manner used to adopt the Compact, then such Rule shall have no further force and effect in any Compacting State.

When promulgating a Rule, the Interstate Commission shall:

1. Publish the proposed Rule stating with particularity the text of the Rule that is proposed and the reason for the proposed Rule;

2. Allow persons to submit written data, facts, opinions and arguments, which information shall be publicly available;

3. Provide an opportunity for an informal hearing; and

4. Promulgate a final Rule and its effective date, if appropriate, based on the rulemaking record.

Not later than 60 days after a Rule is promulgated, any interested person may file a petition in the United States District Court of the District of Columbia or in the Federal District Court where the Interstate Commission's principal office is located for judicial review of such Rule. If the court finds that the Interstate Commission's action is not supported by substantial evidence, as defined in the APA, in the rulemaking record, the court shall hold the Rule unlawful and set it aside.

Subjects to be addressed within 12 months after the first meeting must at a minimum include:

1. Notice to victims and opportunity to be heard;

2. Offender registration and compliance;

3. Violations/returns;

4. Transfer procedures and forms;

5. Eligibility for transfer;

6. Collection of restitution and fees from offenders;

7. Data collection and reporting;

8. The level of supervision to be provided by the receiving state;

9. Transition rules governing the operation of the Compact and the Interstate Commission during all or part of the period between the effective date of the Compact and the date on which the last eligible State adopts the Compact; and

10. Mediation, arbitration and dispute resolution.

The existing rules governing the operation of the previous compact superceded by this Act shall be null and void 12 months after the first meeting of the Interstate Commission created hereunder.

Upon determination by the Interstate Commission that an emergency exists, it may promulgate an emergency rule which shall become effective immediately upon adoption, provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, in no event later than 90 days after the effective date of the rule.

ARTICLE IX.

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION BY THE INTERSTATE COMMISSION.

Section A. Oversight.

The Interstate Commission shall oversee the interstate movement of adult offenders in the Compacting States and shall monitor such activities being administered in Noncompacting States that may significantly affect Compacting States.

The courts and executive agencies in each Compacting State shall enforce this Compact and shall take all actions necessary and appropriate to effectuate the Compact's purposes and intent. In any judicial or administrative proceeding in a Compacting State pertaining to the subject matter of this Compact, which may affect the powers, responsibilities or actions of the Interstate Commission, the Interstate Commission shall be entitled to receive all service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes.

Section B. Dispute Resolution.

The Compacting States shall report to the Interstate Commission on issues or activities of concern to them, and cooperate with and support the Interstate Commission in the discharge of its duties and responsibilities.

The Interstate Commission shall attempt to resolve any disputes or other issues that are subject to the Compact and may arise among Compacting States and Noncompacting States.

The Interstate Commission shall enact a Bylaw or promulgate a Rule providing for both mediation and binding dispute resolution for disputes among the Compacting States.

Section C. Enforcement.

The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions of this Compact using any or all means set forth in Article XII, Section B, of this Compact.

ARTICLE X.

FINANCE.

The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

The Interstate Commission shall levy on and collect an annual assessment from each Compacting State to cover the cost of the internal operations and activities of the Interstate Commission and its staff, which must be in a total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the Interstate Commission, taking into consideration the population of the State and the volume of interstate movement of offenders in each Compacting State and shall promulgate a Rule binding upon all Compacting States, which governs said assessment.

The Interstate Commission shall not incur any obligations of any kind prior to securing the funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the Compacting States, except by and with the authority of the Compacting State.

The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures established under its Bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant and

the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

ARTICLE XI.

COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT.

Any State, as defined in Article II of this Compact, is eligible to become a Compacting State. The Compact shall become effective and binding upon legislative enactment of the Compact into law by no less than 35 of the States. The initial effective date shall be the later of July 1, 2002, or upon enactment into law by the 35th State. Thereafter it shall become effective and binding, as to any other Compacting State, upon enactment of the Compact into law by that State. The governors of nonmember States or their designees will be invited to participate in Interstate Commission activities on a nonvoting basis prior to adoption of the Compact by all States and territories of the United States.

Amendments to the Compact may be proposed by the Interstate Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Interstate Commission and the Compacting States unless and until it is enacted into law by unanimous consent of the Compacting States.

ARTICLE XII.

WITHDRAWAL, DEFAULT, TERMINATION, AND JUDICIAL ENFORCEMENT.

Section A. Withdrawal.

Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact (hereinafter Withdrawing State) by enacting a statute specifically repealing the statute that enacted the Compact into law.

The effective date of withdrawal is the effective date of the repeal.

The Withdrawing State shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this Compact in the Withdrawing State. The Interstate Commission shall notify the other Compacting States of the Withdrawing State's intent to withdraw within 60 days of its receipt thereof.

The Withdrawing State is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal.

Reinstatement following withdrawal of any Compacting State shall occur upon the Withdrawing State reenacting the Compact or upon such later date as determined by the Interstate Commission.

Section B. Default.

If the Interstate Commission determines that any Compacting State has at any time defaulted (hereinafter Defaulting State) in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or any duly promulgated Rules the Interstate Commission may impose any or all of the following penalties:

1. Fines, fees and costs in such amounts as are deemed to be reasonable as fixed by the Interstate Commission;

2. Remedial training and technical assistance as directed by the Interstate Commission;

3. Suspension and termination of membership in the Compact. Suspension shall be imposed only after all other reasonable means of securing compliance under the Bylaws and Rules have been exhausted. Immediate notice of suspension shall be given by the Interstate Commission to the Governor, the Chief Justice or Chief Judicial Officer of the state, the majority and minority leaders of the defaulting state's legislature, and the State Council.

The grounds for default include, but are not limited to, failure of a Compacting State to perform such obligations or responsibilities imposed upon it by this Compact, Interstate Commission Bylaws, or duly promulgated Rules. The Interstate Commission shall immediately notify the Defaulting State in writing of the penalty imposed by the Interstate Commission on the Defaulting State pending a cure of the default. The Interstate Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Interstate Commission, in addition to any other penalties imposed herein, the Defaulting State may be terminated from the Compact upon an affirmative vote of majority of the Compacting States and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of suspension. Within 60 days of the effective date of termination of a Defaulting State, the Interstate Commission shall notify the Governor, the Chief Justice or Chief Judicial Officer and the majority and minority leaders of the Defaulting State's legislature and the State Council of such termination.

The Defaulting State is responsible for all assessments, obligations and liabilities incurred through the effective date of termination including any obligations, the performance of which extends beyond the effective date of termination.

The Interstate Commission shall not bear any costs relating to the Defaulting State unless otherwise mutually agreed upon between the Interstate Commission and the Defaulting State.

Reinstatement following termination of any Compacting State requires both a reenactment of the Compact by the Defaulting State and the approval of the Interstate Commission pursuant to the Rules.

Section C. Judicial Enforcement.

The Interstate Commission may, by majority vote of the Members, initiate legal action in the United States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in the Federal District where the Interstate Commission has its offices to enforce compliance with the

provision of the Compact, its duly promulgated Rules and Bylaws, against any Compacting State in default. In the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such litigation including reasonable attorneys' fees.

Section D. Dissolution of Compact.

The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State that reduces membership in the Compact to one Compacting State. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Interstate Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

ARTICLE XIII.

SEVERABILITY AND CONSTRUCTION.

The provisions of this Compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

The provisions of this Compact shall be liberally constructed to effectuate its purposes.

ARTICLE XIV.

BINDING EFFECT OF COMPACT AND OTHER LAWS.

Section A. Other Laws.

Nothing herein prevents the enforcement of any other law of a Compacting State that is not inconsistent with this Compact.

All Compacting States' laws conflicting with this Compact are superseded to the extent of the conflict.

Section B. Binding Effect of the Compact.

All lawful actions of the Interstate Commission, including all Rules and Bylaws promulgated by the Interstate Commission, are binding upon the Compacting States.

All agreements between the Interstate Commission and the Compacting States are binding in accordance with their terms.

Upon the request of the party to a conflict over meaning or interpretation of Interstate Commission actions, and upon a majority vote of the Compacting States, the Interstate Commission may issue advisory opinions regarding such meaning or interpretation.

In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by such provision upon the Interstate Commission shall be ineffective and such obligations, duties, powers or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which such obligations, duties, powers or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

2004, c. 407.

§ 53.1-176.3. Virginia State Council for Interstate Adult Offender Supervision.

A. The Virginia (the Council) is created as a policy council, within the meaning of § 2.2-2100, in the executive branch of state government. The Council shall consist of five members:

1. One representative of legislative branch appointed by the Joint Rules Committee;

2. One representative of the judicial branch appointed by the Chief Justice of the Supreme Court;

3. One representative of the executive branch appointed by the Governor;

4. One nonlegislative citizen member, representing a victims' group appointed by the Governor; and

5. One nonlegislative citizen member who in addition to serving as a member of the Council shall serve as the Compact administrator for Virginia, appointed by the Governor.

The appointments shall be subject to confirmation by the General Assembly. The legislative members and other state officials appointed to the Council shall serve terms coincident with their terms of office. Members who are not state officials shall be appointed for four-year terms. All members may be reappointed. Appointments to fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies shall be filled in the same manner as the original appointments.

B. The Council shall appoint the compact administrator as the Virginia commissioner to the Interstate Commission. The Virginia commissioner shall serve on the Interstate Commission in such capacity under or pursuant to applicable law of this Commonwealth.

C. The Council shall exercise oversight and advocacy concerning its participation in interstate commission activities and other duties as may be determined by the Council, including development of policies concerning operations and procedures of the Compact within Virginia.

D. The Council shall elect a chairman and vice-chairman annually. A majority of the members of the Council shall constitute a quorum. Meetings of the Council shall be held at the call of the chairman or whenever the majority of the members so request.

E. Legislative members of the Council shall receive such compensation as provided in § 30-19.12 and nonlegislative citizen members shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Department of Corrections.

F. The Department of Corrections shall provide staff support to the Council.

2004, c. 407; 2005, c. 758.

Chapter 5 - COMMUNITY CORRECTIONAL FACILITIES AND PROGRAMS

Article 1 - COMMUNITY FACILITIES FOR PAROLEES AND PROBATIONERS

§ 53.1-177. Authority of Director; establishment of halfway houses; employment of personnel.

The Director is authorized to establish and maintain a system of halfway houses for the temporary care of adults who are placed on probation or released on parole and are determined to be eligible for this service. Such community facility may, in the discretion of the Director, be purchased, constructed or leased. The Director is further authorized to employ necessary personnel for these facilities.

Code 1950, § 53-128.6; 1968, c. 298; 1974, cc. 44, 45; 1978, c. 492; 1982, c. 636.

§ 53.1-178. Director to establish standards.

The 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.

Code 1950, § 53-128.5; 1968, c. 298; 1974, cc. 44, 45; 1978, c. 492; 1982, c. 636; 2020, c. 759.

§ 53.1-179. Purchase of services authorized.

The Director 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.

Code 1950, § 53-128.6; 1968, c. 298; 1974, cc. 44, 45; 1978, c. 492; 1982, c. 636; 2020, c. 759.

Article 2 - COMPREHENSIVE COMMUNITY CORRECTIONS ACT FOR LOCAL-RESPONSIBLE OFFENDERS

§§ 53.1-180 through 53.1-185.3. Repealed.

Repealed by Acts 2002, c. 491, cl. 2.

Chapter 6 - Commencement of Terms; Credits and Allowances

Article 1 - GENERAL PROVISIONS

§ 53.1-186. Term commences from date of final judgment; exceptions.

The term of confinement in a local or state correctional facility for the commission of a crime shall commence and be computed from the date of the final judgment, which, in case of an appeal, shall be that of the refusal of a writ of error or the affirmance of the judgment. When it is ordered that two or more terms of confinement run concurrently, then such terms of confinement shall commence and be computed from the time the first of such terms of confinement commenced.

For the purpose of determining allowances for good conduct, the term of confinement of a person convicted of a felony and sentenced to the Department whose sentence is partially suspended shall be that portion of the sentence which was not suspended.

Code 1950, §§ 53-207, 53-272; 1954, c. 141; 1956, c. 342; 1958, c. 468; 1962, c. 327; 1976, c. 145; 1982, c. 636.

§ 53.1-187. Credit for time spent in confinement while awaiting trial.

Any person who is sentenced to a term of confinement in a correctional facility shall have deducted from any such term all time actually spent by the person in a state hospital for examination purposes or treatment prior to trial, in a state or local correctional facility awaiting trial or pending an appeal, or in a juvenile detention facility awaiting trial for an offense for which, upon conviction, such juvenile is sentenced to an adult correctional facility. When entering the final order in any such case, the court shall provide that the person so convicted be given credit for the time so spent.

In no case shall a person be allowed credit for time not actually spent in confinement or in detention. In no case is a person on bail to be regarded as in confinement for the purposes of this statute. No such credit shall be given to any person who escapes from a state or local correctional facility or is absent without leave from a juvenile detention facility.

Any person sentenced to confinement in a state correctional facility, in whose case the final order entered by the court in which he was convicted fails to provide for the credit authorized by this section, shall nevertheless receive credit for the time so spent in a state correctional facility. Such allowance of credit shall be in addition to the good conduct allowance provided for in Articles 2 (§ 53.1-192 et seq.) and 3 (§ 53.1-198 et seq.) of this chapter or the earned sentence credits provided for in Article 4 (§ 53.1-202.2 et seq.) of this chapter.

Code 1950, § 53-208; 1968, c. 105; 1970, c. 648; 1982, c. 636; 1984, c. 313; 1994, 2nd Sp. Sess., cc. 1, 2.

§ 53.1-188. Conduct records to be kept.

The Director shall keep a record of the conduct of each person confined in a state correctional facility. Each time any prisoner in a state correctional facility is punished, the name of the offender, the offense, the time when the offense was committed, and when and what disciplinary action was taken or sentence was imposed, shall be recorded in a register.

Code 1950, §§ 53-209, 53-215; 1982, c. 636.

§ 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 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.

Code 1950, § 53-214; 1974, c. 69; 1980, c. 485; 1981, c. 392; 1982, c. 636; 1984, c. 734; 1994, 2nd Sp. Sess., cc. 1, 2; 2020, c. 759.

§ 53.1-190. Allowance on discharge; transportation; clothing.

The Director, upon the release of a prisoner who has served at least eight months, shall give the prisoner all funds accumulated to his credit pursuant to §§ 53.1-42 and 53.1-43 and not withdrawn by him. In the event such funds do not total twenty-five dollars, the Director may add sufficient money from the appropriation to the Department to enable the prisoner to have a minimum of twenty-five dollars available for withdrawal by him at the time of his release. The Director also may provide such person upon his request with transportation to the county or city where he was committed, or to such other point in the Commonwealth as may be approved by the Director. Such person may also be furnished suitable clothing.

Code 1950, § 53-219; 1964, c. 421; 1970, c. 648; 1982, c. 636.

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

The 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 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 Director, to blood banks licensed by or subject to regulations of the State Board of Health. The 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.

Code 1950, § 53-220; 1952, c. 8; 1976, c. 209; 1981, c. 392; 1982, c. 636; 1984, c. 253; 1994, 2nd Sp. Sess., cc. 1, 2; 2002, c. 59; 2020, c. 759.

Article 2 - GOOD CONDUCT ALLOWANCES FOR PERSONS COMMITTED PRIOR TO JULY 1, 1981

§ 53.1-192. Applicability of article.

The provisions of this article shall be applicable only to those persons who were convicted, sentenced and committed to the Department prior to July 1, 1981, and who, in accordance with § 53.1-198, are not governed by the system of good conduct allowances established in Article 3 (§ 53.1-198 et seq.) of this chapter.

1982, c. 636.

§ 53.1-193. Good conduct credits for persons convicted prior to October 1, 1942; effect of credit upon eligibility for parole.

Every person convicted of a felony before October 1, 1942, except those referenced in § 53.1-194, shall, for every month that he is held in confinement after June 24, 1944, in any state correctional facility, without violating any prison rule or regulation, be allowed a credit of thirty days upon the total term of confinement to which he has been sentenced, in addition to the time he actually serves. Any credit allowed under the provisions of this section shall also be considered as reducing the term of imprisonment to which the prisoner was or is sentenced for the purpose of determining his eligibility for parole.

Code 1950, § 53-210; 1979, c. 415; 1982, c. 636.

§ 53.1-194. Good conduct credits for prisoners committing crimes, pardon violators and escapees convicted prior to October 1, 1942; effect of credit upon eligibility for parole.

Every person convicted of a felony before October 1, 1942, who had once before been convicted of a felony and regularly discharged from the state corrections system, or who, prior to June 24, 1944, had been returned to a state correctional facility for violating the terms of a conditional pardon, or who had been convicted of a crime while serving his sentence in a state correctional facility, or who had escaped or attempted to escape from a state correctional facility or from a local correctional facility while awaiting trial or transfer to a state correctional facility, shall, for every month he is confined in any state correctional facility after such date, without violating any prison rule or regulation, be allowed a credit of fifteen days upon the total term of confinement to which he has been sentenced, in addition to the time he actually serves. Every person convicted of a felony before October 1, 1942, who is returned thereafter to a state correctional facility for violating the terms of a conditional pardon, or who commits a crime while serving his sentence in a state correctional facility, or who escapes or attempts to escape from a state correctional facility, shall, for every twenty days he is held in confinement after his return to a state correctional facility or after the commission of such crime, or after such escape or attempted escape, without violating any prison rule or regulation, be allowed a credit of only ten days upon the total term of confinement to which he has been sentenced, in addition to the time he actually serves.

Any credit allowed under the provisions of this section shall also be considered as reducing the term of imprisonment to which the prisoner was or is sentenced for the purpose of determining his eligibility for parole.

So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

Code 1950, § 53-211; 1952, c. 142; 1979, c. 415; 1982, c. 636.

§ 53.1-195. Credits earned prior to 1944.

Such credit as any person may have earned pursuant to § 53.1-193 or § 53.1-194 and not forfeited prior to June 24, 1944, shall remain to his credit, unless forfeited as hereinafter provided.

Code 1950, § 53-212; 1982, c. 636.

§ 53.1-196. Good conduct credits of persons convicted after October 1, 1942; effect of credit upon eligibility for parole.

Every person convicted of a felony on or after October 1, 1942 and every person convicted of a misdemeanor and confined in any state correctional facility shall, for every twenty days of confinement after sentence, either in a local correctional facility awaiting transfer to the Department or in any state correctional facility serving the sentence imposed upon him, without violation of any written jail or prison rule or regulation, be allowed a credit of ten days upon his total term of confinement to which he has been sentenced, in addition to the time he actually serves. So much of the credit allowed to misdemeanants by this section as applies to time served prior to June 24, 1944, shall be in lieu of, and not in addition to, any credit they may have earned under the law as it existed prior to such date.

Any credit allowed under the provisions of this section shall also be considered as reducing the term of imprisonment to which the prisoner was or is sentenced for the purpose of determining his eligibility for parole.

So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

Code 1950, § 53-213; 1970, c. 648; 1972, c. 487; 1973, c. 208; 1974, c. 533; 1977, c. 182; 1982, c. 636.

§ 53.1-197. Credit allowed for career and technical educational or other educational training.

Every person sentenced to the Department, while in a local or state correctional facility, who participates in career and technical education or other training while confined, or who shows such interest and application in his work assignment as to exhibit unusual progress toward rehabilitation, may, in the discretion of the Director be allowed a credit toward his parole eligibility date and upon the total term of confinement to which he has been sentenced. Such credit may be from one day to five days for each month he has been engaged in such career and technical education or other training or has applied himself in excess of minimal work assignment requirements. Any credit accumulated prior

to June 1, 1975, toward the term of confinement may, in the discretion of the Director, be credited toward such prisoner's parole eligibility date.

Code 1950, § 53-213.1; 1968, c. 302; 1973, c. 204; 1975, c. 244; 1976, c. 180; 1982, c. 636; 2001, c. 483.

§ 53.1-197.1. Limitation upon applicability of this article.

The provisions of this article shall not apply to any sentence imposed upon a conviction of a felony offense committed on or after January 1, 1995.

1994, 2nd Sp. Sess., cc. 1, 2.

Article 3 - GOOD CONDUCT ALLOWANCES FOR PERSONS COMMITTED ON OR AFTER JULY 1, 1981

§ 53.1-198. Certain persons to choose good conduct system.

Every person who, on or before June 30, 1981, was 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, may choose the system of good conduct allowances established in §§ 53.1-199 through 53.1-202 to govern the computing of his discharge date and eligibility for parole. A person who chooses the system established in this article may not thereafter be governed by the laws establishing good conduct allowances in effect prior to July 1, 1981.

Code 1950, § 53-209.1; 1981, c. 392; 1982, c. 636.

§ 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 Director for such persons in accordance with § 53.1-191.

Code 1950, § 53-209.2; 1981, c. 392; 1982, c. 636; 1993, c. 491; 2020, c. 759.

§ 53.1-200. Conditions for good conduct allowance.

Regulations approved by the 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.

Code 1950, § 53-209.3; 1981, c. 392; 1982, c. 636; 1994, c. 582; 2020, c. 759.

§ 53.1-201. Classification system for good conduct allowance.

Good conduct allowances shall be based upon a four-level classification system. Such system shall be established as follows:

1. Class I at a rate of thirty days credit for each thirty days served. Class I shall be reserved for persons whose initiative, conduct and performance in their assignments are exemplary. Consideration for Class I credit shall be given to persons who perform in assignments requiring a high degree of trust, extra long hours or specialized skills.

2. Class II at a rate of twenty days credit for each thirty days served. Class II shall be reserved for persons whose initiative, conduct and performance in their assignments are satisfactory. Consideration for Class II credit shall be given to persons who require moderate supervision in their assignments and whose assignments require responsibility in the care and maintenance of property.

3. Class III at a rate of ten days credit for each thirty days served. Class III shall be reserved for persons whose conduct and performance in their assignments are marginal. Persons requiring intensive supervision in their assignments and exhibiting minor disciplinary problems may be assigned to Class III.

4. Class IV at a rate of no credit for each thirty days served. Class IV shall be reserved for persons who are in isolation or segregation status for disciplinary or security reasons and persons whose conduct and performance in their assignments are so unsatisfactory as to eliminate consideration for good conduct allowance.

Persons may be reclassified for an increase or decrease in class according to rules and regulations established pursuant to § 53.1-200.

Code 1950, § 53-209.4; 1981, c. 392; 1982, c. 636.

§ 53.1-202. Good conduct allowance for previous confinement; entry level.

Upon receipt by the Department, persons who have been confined while awaiting transfer to a state correctional facility shall be credited with such time as is certified to the Department in accordance with §§ 53.1-116 and 53.1-129 and as is otherwise provided by law. Certified good conduct allowance

shall be applied to reduce the person's maximum term of confinement, and one-half of such credit shall be applied to reduce the period of time the person shall serve before being eligible for parole.

After admission to a state correctional facility, a person shall be credited at the rate of fifteen days for each thirty days of time served with satisfactory conduct. The person shall remain in this credit level until classified in accordance with § 53.1-201.

Code 1950, § 53-209.5; 1981, c. 392; 1982, c. 636.

§ 53.1-202.1. Limitation upon applicability of this article.

The provisions of this article shall not apply to any sentence imposed upon a conviction of a felony offense committed on or after January 1, 1995.

1994, 2nd Sp. Sess., cc. 1, 2.

Article 4 - EARNED SENTENCE CREDITS FOR PERSONS COMMITTED UPON FELONY OFFENSES COMMITTED ON OR AFTER JANUARY 1, 1995

§ 53.1-202.2. Eligibility for earned sentence credits.

A. Every person who is convicted of a felony offense committed on or after January 1, 1995, and who is sentenced to serve a term of incarceration in a state or local correctional facility shall be eligible to earn sentence credits in the manner prescribed by this article. Such eligibility shall commence upon the person's incarceration in any correctional facility following entry of a final order of conviction by the committing court. As used in this chapter, "sentence credit" and "earned sentence credit" mean deductions from a person's term of confinement earned through adherence to rules prescribed pursuant to § 53.1-25, through program participation as required by §§ 53.1-32.1 and 53.1-202.3, and by meeting such other requirements as may be established by law or regulation. One earned sentence credit shall equal a deduction of one day from a person's term of incarceration.

B. A juvenile convicted as an adult and sentenced as a serious juvenile offender under clause (i) of subdivision A 1 of § 16.1-272 shall be eligible to earn sentence credits for the portion of the sentence served with the Department of Juvenile Justice in the manner prescribed by this article. Consideration for earned sentence credits shall require adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1.

1994, 2nd Sp. Sess., cc. 1, 2; 2008, c. 517.

§ 53.1-202.3. Rate at which sentence credits may be earned; prerequisites.

A maximum of four and one-half sentence credits may be earned for each 30 days served. The earning of sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs to which a person is assigned pursuant to § 53.1-32.1. For a juvenile sentenced to serve a portion of his sentence as a serious juvenile offender under § 16.1-285.1, consideration for earning sentence credits shall be conditioned, in part, upon full participation in and cooperation with programs afforded to the juvenile during that portion of the sentence. The Department of Juvenile Justice shall

provide a report that describes the juvenile's adherence to the facility's rules and the juvenile's progress toward treatment goals and objectives while sentenced as a serious juvenile offender under § 16.1-285.1. Notwithstanding any other provision of law, no portion of any sentence credits earned shall be applied to reduce the period of time a person must serve before becoming eligible for parole upon any sentence.

1994, 2nd Sp. Sess., cc. 1, 2; 2008, c. 517.

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

The 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.

1994, 2nd Sp. Sess., cc. 1, 2; 2020, c. 759.

Chapter 7 - CRIMES AND CRIMINAL PROCEEDINGS INVOLVING PRISONERS

Article 1 - CRIMES BY PRISONERS

§ 53.1-203. Felonies by prisoners; penalties.

It shall be unlawful for a prisoner in a state, local or community correctional facility or in the custody of an employee thereof to:

1. Escape from a correctional facility or from any person in charge of such prisoner;

2. Willfully break, cut or damage any building, furniture, fixture or fastening of such facility or any part thereof for the purpose of escaping, aiding any other prisoner to escape therefrom or rendering such facility less secure as a place of confinement;

3. Make, procure, secrete or have in his possession any instrument, tool or other thing for the purpose of escaping from or aiding another to escape from a correctional facility or employee thereof;

4. Make, procure, secrete or have in his possession a knife, instrument, tool or other thing not authorized by the superintendent or sheriff which is capable of causing death or bodily injury;

5. Procure, sell, secrete or have in his possession any chemical compound which he has not lawfully received;

6. Procure, sell, secrete or have in his possession a controlled substance classified in Schedule III of the Drug Control Act (§ 54.1-3400 et seq.) or marijuana;

7. Introduce into a correctional facility or have in his possession firearms or ammunition for firearms;

8. Willfully burn or destroy by use of any explosive device or substance, in whole or in part, or cause to be so burned or destroyed, any personal property, within any correctional facility;

9. Willfully tamper with, damage, destroy, or disable any fire protection or fire suppression system, equipment, or sprinklers within any correctional facility; or

10. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

For violation of any of the provisions of this section, except subdivision 6, the prisoner shall be guilty of a Class 6 felony. For a violation of subdivision 6, he shall be guilty of a Class 5 felony. If the violation is of subdivision 1 of this section and the escapee is a felon, he shall be sentenced to a mandatory minimum term of confinement of one year, which shall be served consecutively with any other sentence. The prisoner shall, upon conviction of escape, immediately commence to serve such escape sentence, and he shall not be eligible for parole during such period. Any prisoner sentenced to life imprisonment who escapes shall not be eligible for parole. No part of the time served for escape shall be credited for the purpose of parole toward the sentence or sentences, the service of which is interrupted for service of the escape sentence, nor shall it be credited for such purpose toward any other sentence.

Code 1950, § 53-291; 1966, c. 300; 1970, c. 648; 1973, c. 403; 1975, c. 588; 1977, c. 497; 1978, cc. 177, 361; 1982, c. 636; 1985, c. 555; 1988, c. 371; 2004, c. 461; 2006, c. 104; 2011, cc. 384, 410; 2014, cc. 674, 719.

§ 53.1-204. If prisoner commits any other felony, how punished.

If a prisoner in a state, local or community correctional facility or in the custody of an employee thereof commits any felony other than those specified in §§ 18.2-31, 18.2-55 and 53.1-203, which is punishable by confinement in a state correctional facility or by death, such prisoner shall be subject to the same punishment therefor as if he were not a prisoner.

Code 1950, § 53-294; 1970, c. 648; 1975, c. 588; 1982, c. 636.

§ 53.1-205. Jurisdiction for trial of prisoners; nature of proceedings.

Subject to the provisions of §§ 53.1-203 and 53.1-204, the jurisdiction, proceedings, trial and judgment in a criminal proceeding against a person confined in a state correctional facility shall be as is provided for in other cases of criminal prosecution.

Code 1950, §§ 53-295, 53-300; 1966, c. 430; 1970, c. 593; 1973, c. 59; 1982, c. 636.

Article 2 - PRISONERS AS WITNESSES OR CHARGED WITH OTHER CRIMES

§ 53.1-206. When prisoner surrendered as witness; certificate.

Prisoners may be surrendered as witnesses if a judge of any court of record of the United States or of the District of Columbia, or of any state certifies under the seal of such court that:

1. There is a criminal prosecution pending in such court or that a grand jury investigation has commenced or is about to commence;

2. A person confined in any state correctional facility in Virginia is a material witness in such prosecution or grand jury investigation, and his presence will be required at a time stated;

3. The officer presenting the certificate is authorized to receive custody of such prisoner and will retain him in his custody until his return to this Commonwealth; and

4. The prisoner will be safely returned to the custody of the Director at such state correctional facility, as the Director may direct.

Upon presentation of such certificate to the Director, if he is of the opinion that the ends of justice will be promoted thereby, the Director may, with the approval of the Governor, surrender the prisoner into the custody of the officer named in the certificate.

Code 1950, § 53-301; 1970, c. 648; 1982, c. 636.

§ 53.1-207. Cost of transportation.

All transportation and other costs incident thereto shall be paid by the authority requesting the prisoner.

Code 1950, § 53-302; 1982, c. 636.

§ 53.1-208. Prisoners indicted or charged with crime outside Virginia; certificate; authority of officer with custody of prisoner.

If a similar certificate, similarly executed, shall state that a prisoner has been indicted or stands legally charged with a crime outside Virginia, the Director may, with the approval of the Governor, likewise deliver the prisoner to the officer presenting the certificate. Such delivery may be conditioned upon the return of the prisoner under such circumstances as the Governor may prescribe.

Any officer of the United States, the District of Columbia, or any other state to whom custody of any such prisoner has been surrendered, is hereby clothed with the authority and powers of a sheriff or a state correctional officer with respect to the custody of the prisoner in this Commonwealth.

Any duly authorized officer of the United States, the District of Columbia, or any other state, while engaged in transporting through Virginia to any other state any prisoner of the United States, the District of Columbia, or any other state, lawfully taken or surrendered into his custody either within or without Virginia in any manner, shall while transporting such prisoner into or through Virginia, be clothed with all of the authority and powers of a sheriff or of a state correctional officer with respect to the custody of the prisoner in this Commonwealth.

Code 1950, § 53-303; 1982, c. 636.

§ 53.1-209. Foreign prisoners to be held in Virginia.

Pursuant to the order or request of the Governor, of any court, attorney for the Commonwealth of Virginia, or any other authorized officer, if any prisoner of the United States, District of Columbia or of any

other state be tendered to the custody of the Director or any duly authorized officer of a state correctional facility, either within this Commonwealth or to be transported to this Commonwealth to be held for trial for crime in Virginia or as a witness in any criminal proceeding in Virginia, the Director or officer is hereby authorized to receive the prisoner into custody. The Director or officer is hereby clothed with the same powers with respect to custody as is possessed over prisoners held after conviction of a crime and sentencing to a state correctional facility by a court of this Commonwealth.

Code 1950, § 53-304; 1982, c. 636.

Chapter 8 - AGREEMENT ON DETAINERS

§ 53.1-210. Agreement entered into and enacted into law.

The Agreement on Detainers is hereby enacted into law and entered into by this Commonwealth with all other jurisdictions legally joining therein in the form substantially as follows:

THE AGREEMENT ON DETAINERS

The contracting states solemnly agree:

ARTICLE I.

The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trials of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures.

As used in this agreement:

ARTICLE II.

(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof.

(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.

ARTICLE III.

(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within 180 days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officers' jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.

(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of corrections or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.

(c) The warden, commissioner of corrections or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.

(d) Any request or final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of corrections or other officials having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the

purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.

(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.

ARTICLE IV.

(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V (a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.

(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.

(c) In respect of any proceeding made possible by this article, trial shall be commenced within 120 days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.

(d) Nothing contained in this article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof, but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.

(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V (e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.

ARTICLE V.

(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in the receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place of trial, whichever custodial arrangement may be approved by the custodian.

(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:

(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.

(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.

(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.

(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.

(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.

(f) During the continuance or temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.

(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the

sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.

(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

ARTICLE VI.

(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.

(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.

ARTICLE VII.

Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.

ARTICLE VIII.

This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by inmates or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.

ARTICLE IX.

This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of

any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Code 1950, § 53-304.1; 1970, c. 407; 1982, c. 636.

§ 53.1-211. Meaning of "appropriate court.".

The phrase "appropriate court" as used in the Agreement on Detainers shall, with reference to the courts of this Commonwealth, mean circuit courts and district courts.

Code 1950, § 53-304.2; 1970, c. 407; 1982, c. 636.

§ 53.1-212. Cooperation in enforcement.

All courts, departments, agencies, officers and employees of this Commonwealth and its political subdivisions are hereby directed to enforce the Agreement on Detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purpose.

Code 1950, § 53-304.3; 1970, c. 407; 1982, c. 636.

§ 53.1-213. Escape of person in custody pursuant to detainer.

Any person who is in the custody of an officer of this Commonwealth pursuant to a detainer issued in accordance with this chapter and who escapes from such custody shall be guilty of a felony and punished by confinement in a state correctional facility for not less than one nor more than five years.

Code 1950, § 53-304.5; 1970, c. 407; 1982, c. 636.

§ 53.1-214. Authority and duty of official in charge of facility.

It shall be lawful and mandatory upon the superintendent, warden or other official in charge of a state or local correctional facility in this Commonwealth to give over the person of any prisoner thereof whenever so required by the operation of the Agreement on Detainers.

Code 1950, § 53-304.6; 1970, c. 407; 1982, c. 636.

§ 53.1-215. Designation of central administrator and information agent.

The Attorney General is hereby authorized and empowered to designate the officers who shall serve as central administrator of and information agent for the Agreement on Detainers pursuant to the provisions of Article VII of the agreement.

Code 1950, § 53-304.7; 1970, c. 407; 1982, c. 636.

Chapter 9 - INTERSTATE CORRECTIONS COMPACT

§ 53.1-216. Governor to execute; form of compact.

The Governor is authorized and requested to execute, on behalf of the Commonwealth, with any other state or states legally joining therein a compact which shall be in form substantially as follows:

The contracting states solemnly agree that:

ARTICLE I.

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, and with the Federal Government, thereby serving the best interest of such offenders and of society and effecting economies in capital expenditures and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II.

As used in this compact, unless the context clearly requires otherwise:

a. "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

b. "Sending state" means a state party to this compact in which conviction or court commitment was had.

c. "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

d. "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

e. "Institution" means any penal or correctional facility, including but not limited to a facility for individuals with mental illness or intellectual disability, in which inmates as defined in d above may lawfully be confined.

ARTICLE III.

a. Each party state may make one or more contracts with any one or more of the other party states, or with the Federal Government, for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

(1) Its duration.

(2) Payments to be made to the receiving state or to the Federal Government, by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

(3) Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

(4) Delivery and retaking of inmates.

(5) Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

b. The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV.

a. Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to Article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

b. The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

c. Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

d. Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

e. All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

f. Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event

such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

g. Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

h. Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

i. The parents, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V.

a. Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharge from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

b. An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI.

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally-aided program or activity for which the sending and receiving states have made contractual provision, provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII.

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII.

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate official of all other party states. An actual withdrawal shall not take effect until one year after the notice provided in said statute has been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX.

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Code 1950, § 53-304.9; 1977, c. 339; 1982, c. 636; 2012, cc. 476, 507.

§ 53.1-217. Authority of Director.

The Director is authorized and directed to do all things necessary and incidental to the carrying out of the compact in every particular. He may in his discretion delegate this authority to some other appropriate official.

Code 1950, § 53-304.10; 1977, c. 339; 1982, c. 636.

Chapter 10 - COMMITMENT OF ALIENS

§ 53.1-218. Duty of officer in charge to inquire as to citizenship; notice to federal immigration officer of commitment of alien.

Whenever any person is committed to a correctional facility for the commission of a felony, the director, sheriff or other officer in charge of such facility shall inquire as to whether the person (i) was born in a country other than the United States and (ii) is a citizen of a country other than the United States. The director, sheriff or other officer in charge of such facility shall make an immigration alien query to the Law Enforcement Support Center of the U.S. Immigration and Customs Enforcement for any person committed to the facility for the commission of a felony who (i) was born in a country other than the United States and (ii) is a citizen of a country other than the United States, or for whom the answer to clause (i) or (ii) is unknown.

In the case of a jail, the sheriff, or other officer in charge of such facility shall communicate the results of any immigration alien query that confirm that the person is illegally present in the United States to the Local Inmate Data System of the State Compensation Board. The State Compensation Board shall communicate, on a monthly basis, the results of any immigration alien query that results in a confirmation that the person is illegally present in the United States to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange.

In the case of a correctional facility of the Department of Corrections, the director or other officer in charge of such facility shall communicate the results of any immigration alien query that results in a confirmation that the person is illegally present in the United States to the Central Criminal Records Exchange of the Department of State Police in a format approved by the Exchange.

The information received by the Central Criminal Records Exchange concerning the person's immigration status shall be recorded in the person's criminal history record.

However, notification shall not be made to the Central Criminal Records Exchange if it is apparent that a report on alien status has previously been made to the Exchange pursuant to § 19.2-83.2 or 19.2-294.2.

Code 1950, §§ 53-313, 53-314; 1970, c. 648; 1982, c. 636; 1985, c. 247; 1994, c. 579; 2008, cc. 180, 415; 2014, c. 641; 2020, cc. 995, 996.

§ 53.1-219. Duty of clerk to furnish copy of complaint, indictment, judgment and sentence.

Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing any alien to any correctional facility for the commission of a felony, it shall be the duty of the clerk of such court to furnish without charge a certified copy, in

duplicate, of the complaint, information or indictment and the judgment and sentence and any other records pertaining to the case of the convicted alien.

Code 1950, § 53-315; 1982, c. 636; 2020, cc. 995, 996.

§ 53.1-220. Transfer of prisoners pursuant to treaty.

When a treaty between the United States and a foreign country provides for the transfer to such foreign country, with the consent of the appropriate state authorities, of convicted offenders in state correctional systems who are citizens or nationals of such foreign country, the Governor is authorized, subject to the terms of such treaty, to act on behalf of the Commonwealth and to consent to the transfer of such convicted offenders.

Code 1950, § 53-315.1; 1978, c. 620; 1982, c. 636.

§ 53.1-220.1. Transfer of prisoners convicted of designated illegal acts.

With the consent of the appropriate state authorities, the Immigration and Naturalization Service may, following notification under § 19.2-294.2, take physical custody of and responsibility for any alien convicted of any (i) felony offense involving murder, rape, robbery, burglary, larceny, extortion, or abduction, or (ii) illegal drug violation designated as a felony under Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2. The director, sheriff or other official in charge of the facility in which such alien is incarcerated may enter into an agreement, which includes provisions relating to reimbursement, with the Immigration and Naturalization Service to retain custody or supervision of such alien until he is deported or until other mutually satisfactory arrangements are made to transfer custody of such alien to the Service.

1985, c. 247.

§ 53.1-220.2. Transfer of certain incarcerated persons to Immigration and Customs Enforcement.

The Director, sheriff, or other official in charge of the facility in which an alien is incarcerated may, upon receipt of a detainer from U.S. Immigration and Customs Enforcement, transfer custody of the alien to U.S. Immigration and Customs Enforcement no more than five days prior to the date that he would otherwise be released from custody. Upon transfer of custody, notwithstanding any other provision of law, the alien shall receive credit for the number of days remaining before he would otherwise have been released.

2015, cc. 102, 211.

Chapter 11 - Estates of Prisoners

§ 53.1-221. Appointment of committee; bond.

A. When a person is convicted of a felony and sentenced to confinement in a state correctional facility, his estate, both real and personal, may, on motion of any party interested, be committed by the circuit court of the county or city in which his estate, or some part thereof is, to a person selected by the court.

B. If a person so convicted and sentenced, whether a resident or a nonresident of Virginia, has no property or estate in the Commonwealth, a committee may be appointed for him, on motion of any

party interested, by the circuit court of the county or city wherein the offense for which he was convicted was committed.

C. A committee appointed pursuant to this section shall give such bond, either secured or unsecured, as is required by the court and shall be subject to all applicable provisions of Part A (§ 64.2-1200 et seq.) of Subtitle IV of Title 64.2.

D. A person for whom a committee is appointed pursuant to this section is not thereby deprived of the capacity to make a will and, unless and until a committee is appointed, such person shall continue to have the same capacity, rights, powers, and authority over his estate, affairs, and property that he had prior to such conviction and sentencing.

Code 1950, §§ 53-305, 53-306; 1952, c. 293; 1982, c. 636; 2007, c. 508.

§ 53.1-222. Powers and liabilities of committee; prosecution and defense of suits to which prisoner is party.

A committee appointed pursuant to § 53.1-221 may sue and be sued in respect to all claims or demands of every nature in favor of or against such prisoner and against any of the prisoner's estate. All actions or suits to which the prisoner is a party at the time of his conviction shall be prosecuted or defended, as the case may be, by such committee after ten days' notice of the pendency thereof, which notice shall be given by the clerk of the court in which the same are pending.

Code 1950, § 53-307; 1980, c. 504; 1982, c. 636.

§ 53.1-223. Restriction on suits against prisoners.

No action or suit on any claim or demand, except suits for divorce, actions to establish a parent and child relationship between a child and a prisoner and actions to establish a prisoner's child support obligation, shall be maintained against a prisoner after judgment of conviction and while he is incarcerated, except through his committee, unless a guardian ad litem is appointed for the prisoner pursuant to § 8.01-9, or an attorney licensed to practice law in the Commonwealth has entered of record an appearance for such prisoner. However, in any suit for divorce instituted against a prisoner, the court shall appoint a committee prior to any determination as to the property of the parties under § 20-107.3.

Code 1950, § 53-307.1; 1980, c. 504; 1982, c. 636; 1992, c. 398; 2000, c. 404; 2006, c. 553.

§ 53.1-224. Maintenance of prisoner's family; spouse's portion.

The committee shall allow, subject to the claims of creditors, a sufficient maintenance out of the prisoner's estate for the prisoner's spouse and family, if any. The spouse shall be entitled, so long as the prisoner is confined, to the profits of such portion of the prisoner's estate as the spouse would have if the prisoner had died intestate.

Code 1950, § 53-308; 1982, c. 636.

§ 53.1-225. Accounting and motion for discharge when prisoner released; delivery of estate to prisoner.

Within ten days from the date of a prisoner's release from confinement, his committee shall file with the circuit court a statement of accounts of all real or personal property or both which the committee received, disbursed or was chargeable with on behalf of the prisoner. Such accounting shall be accompanied by a motion requesting the court to discharge the committee from his duties. Thereafter, the committee shall deliver the estate of the prisoner to the prisoner or his personal representatives on his death.

Code 1950, §§ 53-309, 53-310; 1982, c. 636.

§ 53.1-226. When estate committed to sheriff.

If any person appointed committee refuse the trust or fail to give bond as required, the court, on motion of an interested party, shall commit the estate to the sheriff of the county or city who shall be the committee. The sheriff and the sureties on his official bond shall be bound for the faithful performance of the trust.

Code 1950, § 53-311; 1982, c. 636.

§ 53.1-227. When and how real estate of prisoner sold or encumbered.

The real estate of a prisoner may be leased or sold, when necessary for the payment of his debts, in accordance with Article 8 (§ 8.01-67 et seq.) of Chapter 3 of Title 8.01. Any such real estate or the real estate in which such prisoner is interested with others, infants or adults, may be sold, exchanged for other real estate, or encumbered for the purpose of borrowing money to be used to erect buildings or other improvements on the same.

Code 1950, § 53-312; 1982, c. 636; 1997, c. 801.

§ 53.1-228. Disposal of unclaimed personal property of prisoner.

If any prisoner in a state, local or community correctional facility, upon being transferred to another facility, leaves personal property valued at less than $100 in the custody of such facility for 30 days after his transfer without making a claim therefor, or if any prisoner, upon being released or having escaped, leaves such property at the time of his release or escape, the Director or the sheriff, as the case may be, may sell such property at public sale or may otherwise dispose of the property. The proceeds of such sale shall escheat to the Commonwealth and shall be paid into the state treasury and credited to the Literary Fund.

Code 1950, § 53-312.1; 1956, c. 344; 1981, c. 497; 1982, c. 636; 2010, c. 124.

§ 53.1-228.1. Inmate payment for damaged property.

The 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.

1996, c. 669; 2020, c. 759.

Chapter 12 - EXECUTIVE CLEMENCY

§ 53.1-229. Powers vested in Governor.

In accordance with the provisions of Article V, Section 12 of the Constitution of Virginia, the power to commute capital punishment and to grant pardons or reprieves is vested in the Governor.

Code 1950, § 53-228; 1970, c. 648; 1982, c. 636.

§ 53.1-230. Commutation of capital punishment.

In any case in which the Governor shall exercise the power conferred on him to commute capital punishment, he may issue his order to the Director, who shall receive and confine the person whose punishment is commuted according to such order. To carry into effect any commutation of punishment, the Governor may issue his warrant directed to any proper officer, and the same shall be obeyed and executed.

Code 1950, § 53-228.1; 1956, c. 344; 1981, c. 497; 1982, c. 636.

§ 53.1-231. Investigation of cases for executive clemency by Parole Board.

The Virginia Parole Board shall, at the request of the Governor, investigate and report to the Governor on cases in which executive clemency is sought. In any other case in which it believes action on the part of the Governor is proper or in the best interest of the Commonwealth, the Board may investigate and report to the Governor with its recommendations.

Code 1950, § 53-229; 1970, c. 648; 1982, c. 636.

Chapter 12.1 - RESTORATION OF CIVIL RIGHTS

§ 53.1-231.1. Process for notification regarding restoration of civil rights.

The Director of the Department of Corrections shall provide that any person convicted of a felony is notified of the loss of his civil rights and of the processes to apply for restoration of civil rights and of voting rights. The notice shall be given at the time the person has completed service of his sentence, period of probation or parole, or suspension of sentence.

The Director shall assist the Secretary of the Commonwealth in the administration of the process established by the Governor for the review of applications for restoration of civil rights.

To promote the efficient processing of applications to the Governor, the Secretary of the Commonwealth shall maintain a record of the applications for restoration of rights received, the dates such applications are received, and the dates they are either granted or denied by the Governor. The Secretary shall notify each applicant who has filed a complete application that the complete application has been received and the date the complete application was forwarded by the Secretary to the Governor. Such complete application shall be forwarded by the Secretary to the Governor within ninety days after receipt of the application.

2000, c. 969; 2002, c. 344.

§ 53.1-231.2. Restoration of the civil right to be eligible to register to vote to certain persons.

This section shall apply to any person who is not a qualified voter because of a felony conviction, who seeks to have his right to register to vote restored and become eligible to register to vote, and who meets the conditions and requirements set out in this section.

Any person, other than a person (i) convicted of a violent felony as defined in § 19.2-297.1 or in subsection C of § 17.1-805 and any crime ancillary thereto, (ii) convicted of a felony pursuant to §§ 18.2-248, 18.2-248.01, 18.2-248.1, 18.2-255, 18.2-255.2 or § 18.2-258.02, or (iii) convicted of a felony pursuant to § 24.2-1016, may petition the circuit court of the county or city in which he was convicted of a felony, or the circuit court of the county or city in which he presently resides, for restoration of his civil right to be eligible to register to vote through the process set out in this section. On such petition, the court may approve the petition for restoration to the person of his right if the court is satisfied from the evidence presented that the petitioner has completed, five or more years previously, service of any sentence and any modification of sentence including probation, parole, and suspension of sentence; that the petitioner has demonstrated civic responsibility through community or comparable service; and that the petitioner has been free from criminal convictions, excluding traffic infractions, for the same period.

If the court approves the petition, it shall so state in an order, provide a copy of the order to the petitioner, and transmit its order to the Secretary of the Commonwealth. The order shall state that the petitioner's right to be eligible to register to vote may be restored by the date that is 90 days after the date of the order, subject to the approval or denial of restoration of that right by the Governor. The Secretary of the Commonwealth shall transmit the order to the Governor who may grant or deny the petition for restoration of the right to be eligible to register to vote approved by the court order. The Secretary of the Commonwealth shall send, within 90 days of the date of the order, to the petitioner at the address stated on the court's order, a certificate of restoration of that right or notice that the Governor has denied the restoration of that right. The Governor's denial of a petition for the restoration of voting rights shall be a final decision and the petitioner shall have no right of appeal. The Secretary shall notify the court and the State Board of Elections in each case of the restoration of the right or denial of restoration by the Governor.

On receipt of the certificate of restoration of the right to register to vote from the Secretary of the Commonwealth, the petitioner, who is otherwise a qualified voter, shall become eligible to register to vote.

2000, c. 969; 2003, c. 946.

Chapter 13 - DEATH SENTENCES

§ 53.1-232. Procedures for execution of death sentence; subsequent process.

A. Sentence of death shall not be executed sooner than thirty days after the sentence is pronounced. The court shall, in imposing such sentence, fix a day when the execution shall occur.

B. Whenever the day fixed for the execution of a sentence of death shall have passed without the execution of the sentence and it becomes necessary to fix a new date therefor, the circuit court which

pronounced the sentence shall fix another day for the execution. The person to be executed need not be present but shall be represented by an attorney when such other day is fixed. A copy of the order fixing the new date of execution shall be promptly furnished by the clerk of the court making the order to the Director. The Director shall cause a copy of the order to be delivered to the person to be executed, and, if he is unable to read it, cause it to be explained to him at least ten days before the date fixed for such execution, and make return thereof to the clerk of the court which issued such order.

C. When the day fixed for the execution of a sentence of death has passed without the execution of the sentence by reason of a reprieve granted by the Governor, it shall not be necessary for the court to resentence the prisoner. The sentence of death shall be executed on the day to which the prisoner has been reprieved.

D. Should the condemned prisoner be granted a reprieve by the Governor, or obtain a writ of error from the Supreme Court of Virginia, or should the execution of the sentence be stayed by any other competent judicial proceeding, notice of such reprieve, writ of error or stay of execution shall be served upon (i) the Director, (ii) the warden or superintendent having actual custody of the prisoner, and (iii) the prisoner himself; the Director shall yield obedience to the same. In any subsequent proceeding, the mandate of the court having regard to the condemned prisoner shall be served upon the Director, the warden or superintendent having actual custody of the prisoner and upon the prisoner. Should the condemned prisoner be resentenced to death by the court, the proceedings shall be as hereinabove provided under the original sentence. Should a new trial be granted, such condemned prisoner shall be conveyed back to the place of trial by such officer or officers as the Director may direct.

Code 1950, §§ 19-274, 19.1-301, 53-316; 1960, c. 366; 1972, c. 145; 1978, c. 667; 1982, c. 636.

§ 53.1-232.1. When execution dates required.

In a criminal case where a sentence of death has been imposed, the trial court shall set an execution date when it is notified in writing by the Attorney General or the attorney for the Commonwealth, and the court finds that: (i) the Supreme Court of Virginia has denied habeas corpus relief or the time for filing a timely habeas corpus petition in that Court has passed without such a petition being filed, (ii) the Supreme Court of the United States has issued a final order disposing of the case after granting a stay to review the judgment of the Supreme Court of Virginia on habeas corpus, (iii) the United States Court of Appeals has affirmed the denial of federal habeas corpus relief or the time for filing a timely appeal in that court has passed without such an appeal being filed, or (iv) the Supreme Court of the United States has issued a final order after granting a stay in order to dispose of the petition for a writ of certiorari to review the judgment of the United States Court of Appeals.

The trial court shall conduct a proceeding to set the date within ten days after receiving the written notice from the Attorney General or the attorney for the Commonwealth. The execution date shall be set by the trial court in accordance with the provisions of §§ 53.1-232 and 53.1-234, but in any event

shall be no later than sixty days after the date of the proceeding. Nothing in this provision shall prohibit the trial court from setting an execution date under circumstances other than those specified herein. Once an execution date is scheduled, a stay of execution may be granted by the trial court or the Supreme Court of Virginia only upon a showing of substantial grounds for habeas corpus relief.

1995, c. 503.

§ 53.1-233. Death chamber; who to execute death sentence.

The Director is hereby authorized and directed to provide and maintain a permanent death chamber and necessary appurtenant facilities within the confines of a state correctional facility. The death chamber shall have all the necessary appliances for the proper execution of prisoners by electrocution or by continuous intravenous injection of a substance or combination of substances sufficient to cause death. Any such substance shall be applied until the prisoner is pronounced dead by a physician licensed in the Commonwealth. All prisoners upon whom the death penalty has been imposed shall be executed in the death chamber. Each execution shall be conducted by the Director or one or more assistants designated by him.

The identities of persons designated by the Director to conduct an execution, and any information reasonably calculated to lead to the identities of such persons, including, but not limited to, their names, residential or office addresses, residential or office telephone numbers, and social security numbers, shall be confidential, shall be exempt from the Freedom of Information Act (§ 2.2-3700 et seq.), and shall not be subject to discovery or introduction as evidence in any civil proceeding unless good cause is shown.

Code 1950, §§ 19-275, 19-302, 53-317; 1960, c. 366; 1972, c. 145; 1978, c. 667; 1982, c. 636; 1989, c. 541; 1994, c. 921; 2007, cc. 652, 737.

§ 53.1-234. Transfer of prisoner; how death sentence executed; who to be present.

The clerk of the circuit court in which is pronounced the sentence of death against any person shall, after such judgment becomes final in the circuit court, deliver a certified copy thereof to the Director. Such person so sentenced to death shall be confined prior to the execution of the sentence in a state correctional facility designated by the Director. Prior to the time fixed in the judgment of the court for the execution of the sentence, the Director shall cause the condemned prisoner to be conveyed to the state correctional facility housing the death chamber.

The Director, or the assistants appointed by him, shall at the time named in the sentence, unless a suspension of execution is ordered, cause the prisoner under sentence of death to be electrocuted or injected with a lethal substance, until he is dead. The method of execution shall be chosen by the prisoner. In the event the prisoner refuses to make a choice at least 15 days prior to the scheduled execution, the method of execution shall be by lethal injection. Execution by lethal injection shall be permitted in accordance with procedures developed by the Department. At the execution, there shall be present the Director or an assistant, a physician employed by the Department or his assistant, such other employees of the Department as may be required by the Director, and, in addition thereto, at

least six citizens who shall not be employees of the Department. In addition, the counsel for the prisoner and a clergyman may be present.

The Director may make and enter into contracts with an outsourcing facility, as defined in § 54.1-3401, for the compounding of drugs necessary to carry out an execution by lethal injection. Any such drugs provided to the Department pursuant to the terms of such a contract shall be used only for the purpose of carrying out an execution by lethal injection. The outsourcing facility providing such drugs to the Department pursuant to the terms of such a contract shall label each such drug with the drug name, its quantity, a projected expiration date for the drug, and a statement that the drug shall be used only by the Department for the purpose of carrying out an execution by lethal injection.

The identity of any outsourcing facility that enters into a contract with the Department for the compounding of drugs necessary to carry out an execution by lethal injection, any officer or employee of such outsourcing facility, and any person or entity used by such outsourcing facility to obtain equipment or substances to facilitate the compounding of such drugs shall not be confidential, shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), and may be subject to discovery or introduction as evidence in any civil proceeding. However, the residential and office addresses, residential and office telephone numbers, social security numbers, and tax identification numbers of officers and employees of the outsourcing facility and any person or entity used by the outsourcing facility to obtain equipment or substances to facilitate the compounding of such drugs shall be confidential and exempt from the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

Code 1950, §§ 19-276, 19.1-303, 53-318; 1960, c. 366; 1972, c. 145; 1978, c. 667; 1982, c. 636; 1989, c. 541; 1994, c. 921; 1996, c. 679; 2007, cc. 652, 737; 2016, c. 747; 2020, c. 1166.

§ 53.1-235. Certificate of execution of death sentence.

After execution of the death sentence as provided in this chapter, the physician in attendance shall perform an examination to determine that death has occurred. The Director shall certify the fact of the execution, appending the physician's death certificate thereto, to the clerk of the court by which such sentence was pronounced. The clerk shall file the certificate with the papers of the case and shall enter the same upon the records of the case.

Code 1950, § 53-319.1; 1978, c. 451; 1982, c. 636.

§ 53.1-236. Disposition of remains.

Upon application of the relatives of the person executed, the remains after execution shall be returned to their address and at their cost. If no such application is made within three days of the date of execution, the provisions of § 32.1-298 shall apply.

Code 1950, §§ 19-281, 19.1-307, 53-323; 1960, c. 366; 1972, c. 145; 1978, c. 614; 1982, c. 636.

Chapter 14 - CORRECTIONAL PROGRAMS AND FACILITIES FOR JUVENILES [Repealed]

§§ 53.1-237 through 53.1-260. Repealed.

Repealed by Acts 1989, c. 733.

Chapter 15 - CORRECTIONS PRIVATE MANAGEMENT ACT

§ 53.1-261. Definitions.

As used in this chapter unless the context requires otherwise or it is otherwise provided:

"Correctional services" means the following functions, services and activities when provided within a prison or otherwise:

1. Operation of facilities, including management, custody of inmates and provision of security;

2. Food services, commissary, medical services, transportation, sanitation or other ancillary services;

3. Development and implementation assistance for classification, management information systems or other information systems or services;

4. Education, training and employment programs;

5. Recreational, religious and other activities; and

6. Counseling, special treatment programs, or other programs for special needs.

"Prison" or "facility" or "prison facility" means any institution operated by or under authority of the Department and shall include, whether obtained by purchase, lease, construction, reconstruction, restoration, improvement, alteration, repair or other means, any physical betterment or improvement related to the housing of inmates or any preliminary plans, studies or surveys relative thereto; land or rights to land; and any furnishings, machines, vehicles, apparatus, or equipment for use in connection with any prison facility.

"Prison contractor" or "contractor" means any entity, including a local government, entering into or offering or proposing to enter into a contractual agreement to provide any correctional services to inmates under the custody of the Commonwealth or federal inmates under the custody of the prison contractor, while in the Commonwealth of Virginia.

1991, c. 705; 1992, c. 654; 1995, c. 694; 1996, c. 632; 2007, c. 394.

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

The Director, 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 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.

1991, c. 705; 1992, c. 654; 1995, c. 694; 1998, c. 818; 2020, c. 759.

§ 53.1-263. Authority of security employees.

Security employees of a prison contractor shall be allowed to use force and shall exercise their powers and authority only while on the grounds of an institution under the supervision of the prison contractor, while transporting inmates, while pursuing escapees from such institutions, and while providing inmate security for prisoners at a medical facility in the Commonwealth. All provisions of law pertaining to custodians of inmates, correctional officers, or prison or jail officers, except § 19.2-81.1, shall apply to contractors' security employees.

1991, c. 705; 1992, c. 654; 2007, c. 394.

§ 53.1-264. Application of certain criminal law to contractor-operated facilities.

All provisions of law establishing penalties for offenses committed against custodians of inmates, correctional officers, prison guards, or jail officers shall apply mutatis mutandis to offenses committed by or with regard to inmates assigned to facilities or programs for which a prison contractor is providing correctional services.

1991, c. 705; 1992, c. 654.

§ 53.1-265. Powers and duties not delegable to contractor.

No contract for correctional services shall authorize, allow, or imply a delegation of authority or responsibility of the Director to a prison contractor for any of the following:

1. Developing and implementing procedures for calculating inmate release and parole eligibility dates;

2. Developing and implementing procedures for calculating and awarding sentence credits;

3. Approving inmates for furlough and work release;

4. Approving the type of work inmates may perform and the wages or sentence credits which may be given the inmates engaging in such work;

5. Granting, denying, or revoking sentence credits;

6. Classifying inmates or placing inmates in less restrictive custody or more restrictive custody;

7. Transferring an inmate; however, the contractor may make written recommendations regarding the transfer of an inmate or inmates;

8. Formulating rules of inmate behavior, violations of which may subject inmates to sanctions; however, the contractor may propose such rules to the Director for his review and adoption, rejection, or modification as otherwise provided by law or regulation; and

9. Disciplining inmates in any manner which requires a discretionary application of rules of inmate behavior or a discretionary imposition of a sanction for violations of such rules.

1991, c. 705; 1992, c. 654; 1995, c. 694.

§ 53.1-266. Department shall promulgate regulations.

The 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;

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

5. Such other regulations as may be necessary to carry out the provisions of this chapter.

1991, c. 705; 1992, c. 654; 1995, c. 694; 2020, c. 759.

§ 53.1-267. Expired.

Expired.