THE YOUTHFUL OFFENDER AND THE LAW

REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL
to
THE GOVERNOR
and
THE GENERAL ASSEMBLY OF VIRGINIA

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
RICHMOND
1966

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REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL

Richmond, Virginia, December 28, 1965

To:

HONORABLE A. S. HARRISON, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

The General Assembly, at its 1964 Regular Session, directed the Virginia Advisory Legislative Council to conduct a study and report on matters relating to the administration of justice in cases involving the youthful offender between the ages of eighteen and twenty-one years.

A copy of the resolution embodying the General Assembly's directive follows.

HOUSE JOINT RESOLUTION NO. 22

Directing the Virginia Advisory Legislative Council to study problems relating to administration of justice in the case of youthful offenders.

Whereas, an alarming number of criminal offenses are committed by youths between the ages of eighteen and twenty-one years; and

Whereas, despite their relative immaturity, such youths are treated the same in all respects as adults charged with like violations of the laws of this State; and

Whereas, it is thought that more effective rehabilitation of such youths to the end that they may become responsible members of society equipped to discharge the obligations attendant upon citizenship is essential to the welfare of this State; and

Whereas, the present laws of this State do not make adequate provision for coping with the problems of such youths; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Virginia Advisory Legislative Council is directed to make a study and report on the problems relating to administration of justice in criminal cases in which the accused is between the ages of eighteen and twenty-one years and the extent, if any, to which the present laws relating to crimes and offenses and to juveniles and juvenile courts

The Council shall complete its study and make a report to the Governor and the General Assembly by December one, nineteen hundred and sixty-five.

The Council appointed Charles R. Fenwick of Arlington, member of the Senate and of the Council, to serve as Chairman of a Committee to make the preliminary study and report.

The following individuals accepted the Council's invitation to serve on the Committee: J. Gordon Bennett, Auditor of Public Accounts, Richmond; Paul E. Brown, Judge, Fairfax Circuit Court, Fairfax; Miles Cary, Jr., Attorney, Richmond; Charles P. Chew, Director, Division of Parole, Richmond; Mrs. Charles H. Elmore, Bon Air, Chesterfield County; Mrs. Marion G. Galland, member of the House of Delegates, Alexandria; Anthony C. Gaudio, Chief Parole Officer, Arlington; Garnett S. Moore, member of the House of Delegates, Pulaski; W. L. Painter, Director, Department of Welfare and Institutions, Richmond; and Robert B. Spencer, Jr., Judge, County Court, Buckingham. Mrs. Galland was elected Vice-Chairman. John B. Boatwright, Jr. and Robert L. Masden served as Secretary and Recording Secretary, respectively, to the Committee.

Both Council and the Committee approached the task of implementing House Joint Resolution No. 22 realizing that public and professional concern over the mounting problem of youthful delinquency is acute and that there is wide-spread pressure on legislators and administrators to provide direction in this area.

Starting from the premise that some new or improved method must be found to deal with the correction of youthful offenders to offset the significant rise in the rate of youthful crime and recidivism (repeated crime), we feel that two ideas must underlie our efforts.

First, that these are not simply misguided children; but, rather, that they pose a serious threat to the well-being and safety of our society, which must be protected from the increasingly aggressive nature of their offenses. Second, that among these youthful offenders are many young people who, if treated realistically and effectively when they get in serious trouble, can be salvaged as productive and self-respecting citizens. We believe from our study that, although the program we recommend will entail immediate cost in several respects, in the long run the Commonwealth will save the much greater cost of a rapidly expanding young prison population as well as the cost of the crimes which these youths, left untreated, can be statistically predicted to commit. We will also be contributing significantly to the solution of the problem of youthful delinquency which plagues modern society so sorely.

RECOMMENDATIONS

1. The State should provide a full range of probation services to all courts, including courts not of record, under administrative supervision of the Department of Welfare and Institutions and State Parole Board. As a first step toward this goal, we firmly endorse the current budget proposals of the State Parole Board to provide for additional officers. The localities should be authorized to supplement the salaries of such officers to the extent of fifty per centum of the basic salary which is paid entirely by the State. The subject of probation services for juvenile courts is covered in the companion report on Regional Juvenile and Domestic Relations Courts, which has been issued as a separate report.

2. Provision should be made by law to authorize the court or jury, as the case may be, in their discretion, to commit to the Department of Welfare and Institutions for a period of four years, youthful offenders aged eighteen to twenty-one (and juveniles tried as adults) who have been convicted of the following: (1) a felony not punishable by the mandatory death sentence; (2) a misdemeanor involving (a) personal injury or (b) damage to or destruction of property; or (3) a misdemeanor and who has a record of more than two prior convictions; if, in any of the foregoing cases, there is evidence that a reasonable

amount of rehabilitative service either in or outside the specialized institution proposed herein will return him to society as a productive citizen.

3. Those youthful offenders committed to the Department of Welfare and Institutions for a term of four years may be released, in the discretion of the Virginia Parole Board, at any time up to the end of three years. In no instance should initial confinement be continued more than three years. The Parole Board may authorize early release if it has reason to believe, through continuous evaluation of the offender, that he has successfully established that the program of training and rehabilitation has prepared him for return to society as a productive member thereof. In every case, the released offender would remain on supervised parole for a period of at least one year, or if considered necessary by the Parole Board, up to the end of the original four-year term. Parole violators would be treated as under present laws, but in no case would they be returned to the youthful offender institution. They could be returned to other appropriate facilities in the State penal system for confinement for the remainder of the four-year period. In computing the four-year period, time spent on parole should not count as part of the four years for such violators, just as under existing law, time on parole is not permitted to effect a reduction in sentence.

4. The Department should be authorized and directed to construct and maintain an institution devoted primarily to the rehabilitation, education and training of youthful offenders.

5. The Department should be further authorized and directed to establish diagnostic facilities, as an integral part of such institution, to screen and study youthful offenders committed to the Department for the above-described four-year period and those youths committed to it for observation by the court to obtain presentence diagnosis.

6. The Department should be given discretion, after the completion of a fully adequate diagnosis and classification period for each youthful offender committed for a four-year period, as described above, to place him where it deems most appropriate, giving due consideration to the diagnostic report. If the youthful offender has been placed by the Department in the specialized institution and it becomes evident from his intractable behavior that he is unable or unwilling to benefit from that program, the Department should have authority to transfer him to another type of institution under its jurisdiction for confinement.

Bills to effectuate these recommendations are appended hereto and requisite appropriations can be provided by amendment to the Appropriation Act of 1966.

BACKGROUND FINDINGS

During the course of public hearings conducted by the Committee, testimony was given by an impressive range of experts on the youthful offender problem—circuit, county and juvenile court judges, Commonwealth's attorneys, sheriffs, penal experts and administrators, probation and parole officials, clergymen and educators; and also from a broad cross section of organizations concerned with youth problems.

Extensive and valuable help was given by the Department of Welfare and Institutions, both in supplying useful statistics and in arranging a tour of Southampton Farm for the Committee; similar services were rendered by personnel of the Federal Youth Center in Lorton, Virginia.

We have found virtual unanimity among all those who testified before the Committee as to a number of points:

1. That our present program is inadequate and is not preventing an alarming rate of recidivism. We believe under a system of specialized youth correction, the rate of recidivism drops significantly.

2. That probation and parole are far cheaper than incarceration, and where properly supervised by adequate staff, are effective in the rehabilitation process. It seemed evident from the testimony given that there is a pressing need for more probation officers to serve all our courts, with particular need existing in the county courts not of record whose judges also act as juvenile court judges.

3. That effective remotivation and rehabilitation—academic and vocational as well as psychological—seem to be the basic answer; that without such a program, these youthful offenders tend, on returning to the community after serving their sentences, to revert to the practices which led to their original offenses, and to become more serious offenders as time goes on.

4. That judges need more flexibility in dealing with these eighteen to twenty-one year old offenders, as well as the more aggressive group of juveniles over the age of fourteen whose offenses are so serious that the juvenile courts certify them as adults for processing in the adult criminal courts.

5. That we need more thorough and effective diagnostic and classification work on these offenders to permit effective treatment, as well as more effective diagnosis by an expanded probation staff before sentencing, to provide the judges with more meaningful data. With present caseloads where probation staffs already exist, it appears in many cases to be nearly impossible to provide the judge with more than superficial data on the offender. The judges have been unanimous in their appeal for this type of help.

6. That we need a specialized institution which will diagnose and treat youthful offenders who are believed capable of benefiting from the program; and that the emphasis at such an institution needs to be on staff and program, not physical facilities. And, most importantly, that this institution should be located in an urban area with access to trained persons on a part-time or consultant basis, and in a location which will attract highly competent regular resident staff. Salaries are also an important factor.

7. That the use of a commitment procedure which makes it possible to base the offender's release upon the progress he makes in the specialized institution, and which ensures a period of parole supervision on conditional release, is an essential aspect of any rehabilitation process. In this manner, incentive can be provided to the offender to profit from the program and prepare himself for release as a responsible citizen; and those in the program can be retained long enough to complete the training so necessary to their rehabilitation and future employment.

8. That follow-up is as vital here as in the case of mental patients, to ensure successful reabsorption of the released youth into the normal life of his community. A number of witnesses also spoke of the need for "halfway" programs, such as work-release, to provide incentive and needed experience in the employment market before actual return to the community.

DISCUSSION OF RECOMMENDATIONS

We wish to emphasize that we offer our recommendations in no spirit of criticism of the Department of Welfare and Institutions and its present programs. Limited as they are by present budgets, types of institutions and provisions of law, we feel that they have been doing an outstanding job. If, however, they are to deal effectively with this most pressing problem, new methods and programs must be made possible.

We direct these proposals to youthful offenders between the ages of eighteen and twenty-one, and include also the group of juveniles from fourteen to eighteen who are certified as adults by the juvenile courts. Those offenders who would come under the special program we propose would include those convicted of the following: (1) a felony not punishable by the mandatory death sentence; (2) a misdemeanor involving (a) personal injury or (b) damage to or destruction of property; or (3) a misdemeanor and who has a record of more than two prior convictions; and in any of the foregoing cases, based perhaps on the study made by a probation officer or the diagnostic center we propose, one who gives evidence that a reasonable amount of rehabilitative service, either in or outside the institution proposed herein, will return him to society as a productive citizen.

The program we propose would be selective, because we recognize that not every young offender is capable of benefiting from it and therefore the rehabilitation program depends in the first instance on careful consideration of each offender to determine whether he should be dealt with under this program or should be sentenced and punished under existing criminal procedures. This thought obviously includes the need for adequate probation services for courts to aid them in determining which offenders they shall commit under this procedure. Therefore our first recommendation concerns the increase in probation services to all courts.

The cost of probation and parole is estimated to be a mere fraction of keeping the offender in prison for the same period. With adequate probation services, many youthful offenders who do not constitute a threat to the community if properly supervised, could be kept in the community under the supervision of properly trained probation officers, and could be helped to secure employment and to adjust to the demands of responsible citizenship. Many young persons now in institutions, we believe, could have been more quickly and more effectively rehabilitated if adequate probation services were available to the courts at all levels.

Extensive testimony was given to the effect that our judges at all levels feel hamstrung by their present lack of alternatives in dealing with youthful offenders and serious juvenile offenders. Judges reported that they feel obliged, by the seriousness of the offense and for the protection of society, sometimes to subject a possibly malleable youth to the "postgraduate course in crime" that a sentence to adult prison implies. In other cases juvenile judges were reluctant to subject a fifteen year old to adult prison (the possible result of certifying him as an adult) though they recognized that an overcrowded training school geared to the needs of children could not provide the true rehabilitation program so badly needed by the offender.

In particular, in addition to more probation services, was the felt need for a specific program of rehabilitation in a carefully selective rehabilitative institution with a limited age range, so that the judge or jury in their discretion would have an alternative to a fixed sentence

to an adult jail or prison in those cases where their evaluation of the offender indicated he had the potential for successful rehabilitation.

At present, the judge or jury dealing with a felon eighteen to twenty-one years old (including juveniles certified as adults) has only limited options:

1. To put him on probation, if such services are available; but even where they exist the judges are influenced by the knowledge that case loads are frequently much too high to make probation a desirable or effective solution either for the offender or for society. This has a particular bearing on borderline cases.

2. To sentence him to the penitentiary, where he will be exposed to hardened adult criminals and to all that this implies, and where programs of training or rehabilitation are quite limited. Our study indicates that this can too often be the beginning of a lifetime in prison on the installment plan, with its attendant costs to taxpayer and offender.

As to misdemeanants, the judge has the further option of sending them directly to one of the road forces or prison farms, not usually available for anyone under eighteen, where only limited programs of education and training are available, and the range of age and criminal record is very wide, or to a local jail.

If the offender is sentenced to the penitentiary, he is classified by the Classification Committee and is assigned to one of several facilities to serve his sentence:

1. The penitentiary, which we have discussed above.

2. One of the road camps or prison farms also discussed above.

3. Southampton Farm (only if a first offender) where there is a vocational and academic program, but where, because of its isolated location and its essential character as a farm, it seems unlikely that we can ever attract a professional staff to provide the more complex program of remotivation and rehabilitation which is so necessary. The commendable work currently being done at Southampton should be continued. In recommending a more specialized institution, we do not in any way wish to detract from the beneficial and in many instances very adequate work being done there. But we are convinced more is needed and that the proposed institution will complement Southampton. The proposed institution would serve as a pilot project for developing programs eventually applicable at Southampton and elsewhere in the prison system.

The judges and law enforcement officials who testified at Committee hearings were strong in their recommendation of additional alternatives, which we propose, as follows:

1. If the judge feels that before sentencing any offender between the ages of eighteen and twenty-one in the categories listed in Recommendation 2 of this report (or a juvenile certified as an adult) more intensive psychiatric-psychological diagnosis is indicated pending final disposition, he may commit him for observation for a period not to exceeed sixty days to the diagnostic facility at the proposed institution. If additional observation is deemed advisable, the Department may apply to the judge for the extension of such commitment for an additional period of up to sixty days. This procedure would *not* necessarily include subsequent commitment to this specialized institution for treatment.

2. If the judge or jury believes, with or without benefit of consultation with probation staff, that any youthful offender as defined above, could profit from treatment in the specialized institution, they may commit him to the Department of Welfare and Institutions for treatment as a youthful offender, for a period of four years.

The youth would be placed by the Department in the proposed youthful offender institution for fully adequate testing and diagnosis by a trained staff of medical, psychiatric, psychological and social work personnel, who would determine whether he offers promise of benefiting from a specialized program of academic, vocational and psychological-sociological training.

If the offender is determined by the study to offer such promise, he would then be confined for an indeterminate period of up to three years in the proposed institution and his release before the end of the three years would depend on the progress he has made, determined by a continuous process of evaluation. In any event, there would be a mandatory period of at least one year of supervision by parole officers after his release, to aid his adjustment in his re-entry into society, to help him find employment and to deal with the many problems that now so often cause a released youthful offender to return to crime in his failure to adjust. The period of parole would not, in any case, extend beyond the termination of the four-year period of commitment to the Department.

If the offender violates his parole from the proposed institution, he would become subject to the consequences of parole violation as they presently exist, and the violator would not be returned to custody as a youthful offender, but could be admitted to the penitentiary for placement determination by the Classification Committee to be confined the remainder of the original four years. In case of such violation, time on parole prior to the violation would not be permitted to reduce the four-year period.

If an offender has been committed as a youthful offender and after final release commits a new offense, he would not be eligible, regardless of his age, for commitment as a youthful offender for that or any subsequent offense.

We noted earlier that, with the exception of the case in which the mandatory death sentence is imposed, the coverage of offenders who may be tried and committed to the correctional institution herein proposed is quite broad. We must emphasize, however, that it is optional with the judge or jury trying the case as to whether the offender will be committed for the four-year indeterminate period which makes him eligible for the rehabilitative treatment recommended or will be sentenced to any greater or lesser penalty provided by law. The judge or jury elects to commit a prisoner for the indeterminate period only if of the opinion that the offender will profit from the correctional devices proposed. That is to say, for example, a felon may still be sentenced for twenty years and a a misdemeanant for six months.

The plan is intended to give the courts the greatest latitude in dealing with offenders who may be brought before them. We believe the courts of this State can be trusted with the discretion herein conferred upon them. They are familiar with local conditions; they will have the advantage of presentence investigations and the other facilities set forth before deciding what action to take in the case of an individual offender. It should also be noted that procedures currently available under our

laws, such as that for commitment before trial to determine sanity, remain available to the courts under this plan.

We reiterate that those judges and other correction experts who testified agree that the success of such an institution depends on the quality and adequacy of its staff. Elaborate buildings and facilities are secondary considerations, although careful planning is essential to ensure security and effective supervision and training; and of course modern equipment is vital for the academic and vocational programs. We include, as an exhibit to this report, cost estimates for minimum physical facilities and express the hope that adequate planning money may be appropriated in the forthcoming session of the General Assembly so that an immediate start can be made.

Following study and inspection of existing facilities, it became apparent *first* that an important part of such an institution for youthful offenders must be the absolute limits provided by an outer prison fence or wall with maximum security precautions. These offenders must understand *primarily* that they are in custody for the protection of society from their unacceptable behavior. Once this understanding is enforced, then an atmosphere of individual responsibility within the walls can be an aid in the rehabilitation process. *Second*, individual cells are important in the prevention of many of the evils that prison life fosters. *Third*, adequate athletic programs and facilities are important. *Fourth*, well-trained teachers and an adequate supply of modern books and teaching aids are essential. *Fifth*, vocational programs must be first-rate, geared to modern employment possibilities and equipped with up-to-date machinery and tools. *Sixth*, psychiatric, psychological and sociological services must be provided in depth to encourage the remotivation that is needed if these youthful offenders are to make a true fresh start; and in this connection, location in an urban area is essential to attract a qualified staff. *Seventh*, evaluation of conduct, progress and attitudes must be made continuously to determine readiness for release. *Eighth*, a valuable part of preparing for release should be a program of work release.

With respect to female youthful offenders, our study of existing facilities persuades us that commitment to the Department under an indeterminate sentence and placement in the State Farm for Women with its existing excellent rehabilitation programs offers comparable benefits to this group. The female crime rate is so appreciably lower than the male, that the expense of a separate, new institution is not justified in our judgment.

After thorough discussion, the Committee determined to recommend that the trial of these youthful offenders should continue to be in the nature of a criminal proceeding, without the special protection that is accorded to children in juvenile court proceedings. Our reasoning in so recommending is that these youths are serious offenders, who will not profit from any treatment that minimizes the seriousness of their behavior. It is no part of our purpose to set up a program that would encourage these youthful offenders to believe that they are regarded as misguided children.

The Director of the Department, under the plan we propose, will have jurisdiction of the youthful offender, once committed to him by the judge. He may, if diagnosis or subsequent record of intractable behavior in, or threat to the peace and tranquility of, the institution, so indicate, transfer the youthful offender to another facility under his jurisdiction. We believe it is important to provide the Department with flexibility in dealing with these youthful offenders so that each case can be treated on its merits.

In order to prevent the proposed institution and its diagnostic facilities from becoming a dumping ground for an indiscriminate range of offenders, we propose to limit its use to those youthful offenders who after testing are considered "good risks" for the program in the sense that they appear to be capable of rehabilitation. In other words, we do not contemplate that every offender between eighteen and twenty-one shall be held in this facility but only those whom the courts and the Department believe can profit from its facilities.

We strongly believe that the proposed institution should be constructed to accommodate 300 persons. A larger institution would in our judgment be too cumbersome to provide the program which we have recommended. This should be a pilot project for testing new treatment methods and we definitely oppose the construction of a large facility which will inevitably become no more than a custodial institution. Our purpose is to correct and rehabilitate these offenders and we believe this can only be done with a program that provides intimate contacts and intensive work with trained staff.

As to the often raised question of mentally defective delinquents and those suffering from severe emotional disturbance, we point to the intensive diagnostic study that will be made under this program. This should determine mental defectiveness and severe emotional disturbance where they exist and those offenders should be committed to other appropriate institutions.

EFFECTIVE DATE OF PROPOSED CHANGES

It will obviously take some time to construct the institution which we recommend, to assemble and have on hand a smoothly working diagnostic staff, to allow necessary internal changes in the Department of Welfare and Institutions and to make all the arrangements necessary for the effective functioning of the correctional system which we propose. The facility should be planned with appropriations made by the General Assembly of 1966. In addition, we suggest that legislation implementing our recommendations be made effective as of July 1, 1968, with the additional thought in mind that if complications arise which have not been brought to our attention, they can be corrected by the General Assembly of 1968 without disturbing the orderly establishment of the system which will go into effect on July 1, 1968.

CONCLUSION

We wish to express our appreciation to the many persons who were so generous with their time and thought in aiding us in our work. We received many valuable proposals and suggestions and note here our indebtedness to those who made them and especially to the Committee for its thorough investigation and preliminary report.

Respectfully submitted,

EDWARD E. WILLEY, *Chairman*
TOM FROST, *Vice-Chairman*
C. W. CLEATON
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WILLIAM F. STONE

A BILL to amend and reenact § 53-247, as amended, of the Code of Virginia, relating to compensation of probation and parole officers.

Be it enacted by the General Assembly of Virginia:

1. That § 53-247, as amended, of the Code of Virginia be amended and reenacted as follows:

§ 53-247. Each probation and parole officer shall also be paid all necessary traveling and other expenses incurred by him in the discharge of his duties hereunder. The salary and expenses herein provided for shall be paid by the State and no part shall be paid by or chargeable to any county or city, except as hereinafter provided.

Provided, however, the governing body of any county * or city * may add to the fixed compensation of such probation and parole officers such amount as such governing body may appropriate with such total amount not to exceed fifty per cent of the amount paid by the State to such probation and parole officers and provided further that no such additional amount paid by such *city*, cities, county or counties shall be chargeable to the Department of Welfare and Institutions or the Parole Board, nor will it remove or supersede any authority, control or supervision of such Department or Board.

A BILL to amend the Code of Virginia by adding sections numbered 19.1-295.1 through 19.1-295.6, to authorize commitment for a four-year period, indeterminate in character, in certain cases; to provide for commitment to the Department of Welfare and Institutions and for release and parole in such cases; and to authorize commitment for presentence diagnosis in certain cases.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia be amended by adding sections numbered 19.1-295.1 through 19.1-295.6, as follows:

§ 19.1-295.1. (a) The judge or jury, as the case may be, when fixing punishment in those cases specifically enumerated in subsection (b) of this section, may, in their discretion, in lieu of imposing any other penalty provided by law, commit persons convicted in such cases for a period of four years, which commitment shall be indeterminate in character. Such persons shall be committed to the Department of Welfare and Institutions for initial confinement for a period not to exceed three years. Such confinement shall be followed by at least one year of supervisory parole, conditioned on good behavior, but such parole period shall not, in any case, continue beyond the four-year period.

(b) The provisions of subsection (a) of this section shall be applicable in those cases in which the person convicted:

(1) committed the offense of which convicted after becoming eighteen but before becoming twenty-one years of age; or was a juvenile certified for trial as an adult under the provisions of §§ 16.1-176, 16.1-177 or 16.1-177.1; and

(2) was convicted of an offense which is either (i) a felony not punishable by the mandatory death penalty, or (ii) a misdemeanor involving injury to a person or damage to or destruction of property, or (iii) a misdemeanor which constitutes the third or more numerous conviction for such person (in which case evidence of past convictions shall be considered by the judge in determining if the provisions of this section are applicable); and

(3) is considered by the judge or jury, as the case may be, to be capable of returning to society as a productive citizen following a reasonable amount of rehabilitation.

§ 19.1-295.2. Every person committed to the Department under § 19.1-295.1 shall be confined first at the institution established under the provisions of Chapter 5.1 of Title 53 of the Code of Virginia for fully adequate study, testing and diagnosis prior to a determination by the Department as to where such person shall be confined; provided, however, that any such person may be committed to a mental hospital or like institution, as provided by law during such period or transferred thereto; and provided, further, that females so committed shall be confined at the State Industrial Farm for Women for purposes of both initial study and ultimate confinement.

§ 19.1-295.3. Any person committed under the provisions of § 19.1-295.1 shall be eligible for release following initial study, testing and diagnosis at any time prior to the completion of three years in confinement. The Virginia Parole Board shall have discretion to release such person upon a determination that he or she has demonstrated that such release is compatible with the interests of society and of such person and

his or her successful rehabilitation to that extent. The Department and Parole Board shall make continuous evaluation of their progress to determine their readiness for release. All such persons, in any event, shall be released by the Parole Board after three years' confinement.

§ 19.1-295.4. The Virginia Parole Board shall supervise every person released under the preceding section for a period of at least one year and may continue such supervised parole for a longer period, if it deems such advisable, provided such initial parole period shall not extend beyond the termination of the four-year period.

§ 19.1-295.5. Every person on parole under the preceding section shall comply with such terms and conditions as may be prescribed by the Board according § 53-257 and shall be subject to the penalties imposed by law for a violation of such terms and conditions; provided, however, such person shall in no case be returned to the institution established under Chapter 5.1 of Title 53. Time on parole shall not be counted as part of the four-year period of commitment under this section.

§ 19.1-295.6 The court, in its discretion, may prior to determining punishment as provided for in § 19.1-295.1 or other applicable provisions of law, commit, for a period not to exceed sixty days, the person convicted to the diagnostic facilities of the institution established under Chapter 5.1 of Title 53 for evaluation and report. If additional evaluation is deemed advisable, the Department of Welfare and Institutions may apply to the court for an extension of such commitment for a period of up to sixty days. The court shall not be bound by such report in the matter of determining punishment.

2. If any section, subsection, sentence, part or application of this act be held unconstitutional by a court of last resort, such holding shall not affect any other section, sentence, part or application which can be given effect without the part so held invalid.

3. This act shall be in force on and after July one, nineteen hundred sixty-eight.

A BILL to amend the Code of Virginia by adding in Title 53 a chapter numbered 5.1, consisting of sections numbered 53-128.1 through 53-128.5, directing the Department of Welfare and Institutions to establish a penal institution for the purposes of confining and rehabilitating certain persons and having certain diagnostic and treatment facilities.

1. That the Code of Virginia be amended by adding in Title 53 a chapter numbered 5.1, consisting of sections numbered 53-128.1 through 53-128.5, as follows:

CHAPTER 5.1

§ 53-128.1. The Department of Welfare and Institutions, referred to hereinafter as the Department, shall establish, staff and maintain an institution for the rehabilitation, training and confinement of persons committed to the Department under the provisions of § 19.1-295.1 et seq. and determined by the Department to have the potential for rehabilitation which justifies their confinement and treatment therein.

§ 53-128.2. The Department shall establish and maintain at such institution the following:

(a) programs and facilities for counselling, education and vocational training designed for the rehabilitation of prisoners confined therein as well as sufficient facilities for their secure confinement; and

(b) facilities for the study, testing and diagnosis of the following persons and for reporting the results thereof as required:

(i) persons committed to the Department under the provisions of § 19.1-295.1 et seq. and confined at such institution for a determination as to the likelihood of their benefiting from the programs of such institution; and

(ii) persons confined therein and confined elsewhere in the State penal system under the indeterminate period of commitment authorized by § 19.1-295.1 et seq. to evaluate their progress periodically and to determine their readiness for release; and

(iii) persons committed to the Department for diagnosis under the provisions of § 19.1-295.6 prior to a determination of punishment.

§ 53-128.3. The Department shall give careful consideration to the report developed at the diagnostic facilities established under § 53-128.2 in determining whether persons committed to it under the provisions of § 19.1-295.1 et seq. are to be confined at such institution or elsewhere in the State penal system.

§ 53-128.4. Any person confined by the Department in the institution established under the provisions of this chapter may be transferred from such institution to other facilities of the State penal system for the remainder of the period of commitment under § 19.1-295.1 et seq., upon a finding by the Department that his intractable behavior indicates he will not benefit from the programs of such institution.

§ 53-128.5. In no case shall a person previously confined in such institution, whether for a different or the same offense, be confined therein again, except for purposes of study, testing and diagnosis. The provisions of §§ 53-213 and 53-220 relating to time off for good behavior or extraordinary service shall not apply to persons confined in such institution; but acts performed by such persons which would earn credit for them under § 53-220, if it were applicable, shall be noted on their record by the authorities of such institution. The provisions of § 53-220.1 shall apply mutatis mutandis so that an allowance for labor may be paid such persons.

EXHIBIT

ESTIMATED COST

A VOCATIONAL TRAINING TYPE PRISON INSTITUTION

(Felons and Misdemeanants 18-21 years)
300 Inmates

FACILITIES	ESTIMATED COST	NOTES
UTILITIES:		
Land	Not included	*Minimum 40 acres
Clearing	$ 18,000	@ $450 per acre
Grading	20,000	@ $550 per acre
Water Supply	113,000	Inc. pipe, fire hydrants &c
Sewage Disposal	40,000	Inc. trunklines, lagoon &c
Power plant	400,000	Building, two boilers
Double Fence, Towers	110,000	Six towers
Roads and Walks	40,000	5" x 5' walk—22' roadway
Landscaping, seeding	10,000	
Emergency Generator	18,000	
Lighting	15,000	Fence and Area
ADMINISTRATION:		
Administration Building	$ 325,000	
Infirmary, Receiving Bldg...	200,000	10-bed infirmary; 30-bed Receiving; Medical Offices, Examining Room
HOUSING:		
Cell Buildings**	$ 960,000	2 100-man single cell bldgs.
Rooms Building**	400,000	1 100-man single-room bldg.
Guards' Quarters	35,000	Housing for 16 guards
ACTIVITIES, OTHER:		
Mess Hall	$ 400,000	
Central Warehouse, Refrig...	130,000	
Maintenance Shop	25,000	
EDUCATION, TRAINING, RECREATION:		
Academic School	$ 280,000	6 classrooms; library; office
Vocational School	322,500	8 shops
Athletic Field	10,000	Including bleachers
Gymnasium	350,000	
	$4,221,500	

*Acreage based on 20 acres inside fence with approximately 200-foot "buffer zone" around perimeter; allowing for space for wells and sewage lagoon.

**If open dormitories are considered, housing cost would be reduced.

GENERAL INFORMATION: Architectural and Engineering fees, as well as cost of equipment, are included in the structure cost estimates.