

**REPORT OF THE
VIRGINIA CODE COMMISSION
ON
REVISION OF TITLE 53 OF THE CODE OF VIRGINIA
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 19

**COMMONWEALTH OF VIRGINIA
RICHMOND
1982**

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**Report of the
Virginia Code Commission
On
Revision of Title 53 of the Code of Virginia
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
January, 1982**

To: The Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

Senate Joint Resolution No. 42 of the 1980 Acts of Assembly directed the Virginia Code Commission to make a careful study of Title 53 and report its findings to the Governor and General Assembly in the form of a recodification of that title. Reasons given for the recodification were that Title 53 has not been generally revised since 1970 and that the many changes in the administration of correctional and parole services in the Commonwealth during the past decade substantially affected the organization of Title 53.

In accordance with the mandate of S.J.R. 42, the Code Commission has conducted a comprehensive study of the laws of Virginia concerning corrections, both in Title 53 and related sections in other titles. The result is a recodification of Title 53 into a new Title 53.1, comprised of 14 chapters and 260 sections, and amendments to sections in Titles 2.1, 16.1, 18.2, 19.2 and 58.

The Commission has rewritten and combined sections or parts of sections so as to eliminate archaic or redundant language and out-dated provisions. The revisor's notes following most sections in proposed Title 53.1 explain the changes made in each section compared to the equivalent section in Title 53. Tables follow this text which cross-reference the sections of Title 53 and proposed Title 53.1.

During the course of its deliberations, the Commission held one public hearing and numerous open working sessions attended by representatives of governmental agencies and other groups interested in the field of corrections. The members of the Commission wish to thank all those who gave so much time and effort to assist the Commission in this undertaking.

The Virginia Code Commission recommends that the General Assembly of Virginia enact the attached bill at the 1982 Session.

Respectfully submitted,

Frederick T. Gray, Chairman
Theodore V. Morrison, Jr., Vice Chairman
John A. Banks, Jr.
Russell M. Carneal
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53-19.9	53.1-27	53-25	Deleted
53-19.10	53.1-11	53-26	Deleted
53-19.11	53.1-12	53-33	53.1-32
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53-19.18:1	53.1-1	53-40	53.1-23
53-19.19	53.1-17	53-42	Deleted
53-19.20	53.1-15	53-45	Deleted
	53.1-18	53-47	53.1-33
53-19.21	53.1-14	53-48	Deleted
53-19.22	Deleted	53-50	Deleted
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53-19.25	53.1-4	53-61	Deleted
53-19.27	Deleted	53-62	53.1-54
53-19.28	Deleted	53-63	53.1-45
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53-19.38	Deleted	53-75.1	Deleted
53-19.38:1	53.1-31	53-75.2	Deleted
53-19.39	53.1-5	53-75.3	Deleted
53-19.40	53.1-150	53-75.4	Deleted
53-20	Deleted	53-75.5	Deleted
53-21	Deleted	53-75.6	Deleted

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53-202	53.1-102	53-236	Deleted
53-203	Deleted	53-237	Deleted
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53-206.3	53.1-106	53-243	53.1-142
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A BILL to amend and reenact §§ 2.1-121, 16.1-238, 16.1-239, 16.1-275, 16.1-276, 16.1-294, 16.1-313, 18.2-31, 18.2-55, 19.2-303, 19.2-310 and 58-441.6 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 16.1-322.1, 16.1-322.2, 18.2-473.1 and 19.2-303.1 and by adding a new title numbered 53.1, containing chapters numbered 1 through 14 and sections numbered 53.1-1 through 53.1-260, and to repeal § 19.2-310.1 and Title 53 of the Code of Virginia, containing chapters numbered 1.1 through 19 and sections numbered 53-19.5 through 53-343, relating generally to the administration of the state and local corrections systems, so as to revise, rearrange, amend and recodify the laws of Virginia relating generally to corrections; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-121, 16.1-238, 16.1-239, 16.1-275, 16.1-276, 16.1-294, 16.1-313, 18.2-31, 18.2-55, 19.2-303, 19.2-310 and 58-441.6 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 16.1-322.1, 16.1-322.2, 18.2-473.1 and 19.2-303.1 and by adding a new title numbered 53.1, containing chapters numbered 1 through 14 and sections numbered 53.1-1 through 53.1-260, as follows:

§ 2.1-121. Legal service in civil matters. All legal service in civil matters for the Commonwealth, the Governor and every *State state* department, institution, division, commission, board, bureau, agency, entity, official, judge of any circuit court or district court, including the conduct of all civil litigation in which any of them are interested, shall be rendered and performed by the Attorney General, except as hereinafter provided in this chapter and except for any litigation concerning a justice or judge initiated by the Judicial Inquiry and Review Commission. No regular counsel shall be employed for or by the Governor or any *State state* department, institution, division, commission, board, bureau, agency, entity or official. The Attorney General in his discretion may represent personally or through one of his assistants any member, agent or employee of the Alcoholic Beverage Control ~~Board~~ *Commission* ; agent, inspector or investigator appointed by the State Corporation Commission; agent, investigator or auditor employed by the Department of Taxation; member, agent ; or employee of the State Mental Health and Mental Retardation Board, the Department of Mental Health and Mental Retardation, the State Board of Health, the State Department of Health, the Department of General Services, the State Board of ~~Welfare~~ *Social Services* , the Department of ~~Welfare Social Services~~, *the State Board of Corrections, the Department of Corrections, the Virginia Parole Board* or the Department of Agriculture and ~~Commerce~~ *Consumer Services* ; person employed by the State Highway and Transportation Commission; ~~persons~~ *person* employed by the Commissioner of Motor Vehicles; ~~persons~~ *person* appointed by the Commissioner of Marine Resources; ~~any guard or other authorized person acting as custodian of any prisoner under the supervision of the Director of the Department of Corrections;~~ police officer appointed by the Superintendent of State Police; or any game warden appointed by the Commission of Game and Inland Fisheries; who shall be made defendant in any civil action for damages arising out of any matter connected with his official duties. If, in the opinion of the Attorney General, it is impracticable or uneconomical for such legal service to be rendered by him or one of his assistants, he may employ special counsel for this purpose, whose compensation shall be fixed by the Attorney General.

The compensation for such special counsel shall be paid out of the funds appropriated for the administration of the board, commission, division or department whose members, officers, inspectors, investigators, or other employees are defended pursuant to this section. Notwithstanding any provision of this section to the contrary, the Supreme Court, in its discretion, may employ its own counsel in any matter arising out of its official duties in which it, or any justice, is a party.

§ 16.1-238. Compensation of probation officers, court service staff members and related court service personnel.—The compensation of probation officers and other court service staff members appointed in accordance with §16.1-235 B shall be fixed by the governing body of the city or county in which they serve, in accordance with minimum standards ~~fixed by regulation of~~ *prescribed by* the State Board, and shall be paid out of ~~by~~ the county or city ~~treasury~~ ; ~~provided that one half of such compensation shall be reimbursed to any city or county complying with the minimum standards set by the State Board from funds appropriated to the Department of Corrections out of funds provided pursuant to § 16.1-322.2 . Except that, insofar as~~ Any funds from the ~~Division of Justice and Crime~~

Prevention of the State of Virginia Department of Criminal Justice Services or from other public fund sources outside of the provisions of this law which are used in compensating such personnel ; such funds shall not be considered State state funds.

Compensation of all other probation officers and related court service personnel appointed in accordance with §16.1-235 A shall be fixed in accordance with minimum standards fixed by regulation of the State Board and paid from funds appropriated to the Department of Corrections, except that salary schedules shall be established on a basis competitive with those of other positions requiring similar education and experience and adjusted to compensate for economic differentials among the various geographic regions of the State in accordance with Chapter 10 (§ 2.1-110 et seq.) of Title 2.1 . Personnel transferred from local and regional court staffs shall suffer no reduction in pay and shall transfer into the State state program all accrued leave and other benefits allowable under chapter Chapter 10 (§2.1-110 et seq.) of Title 2.1. Probation officers and related court service personnel appointed in accordance with § 16.1-235 A shall be paid necessary traveling and other expenses incurred in the discharge of their duties.

The salary and expenses provided for personnel appointed in accordance with § 16.1-235 A shall be paid by the Commonwealth, and no part shall be paid by or chargeable to any county or city. The governing body of any county or city, however, may add to the compensation of such personnel such an amount as the governing body may appropriate not to exceed fifty percent of the amount paid by the Commonwealth. No such additional amount paid by a local governing body shall be chargeable to the Department of Corrections nor shall it remove or supersede any authority, control or supervision of the Department.

§ 16.1-239. Traveling expenses of court officers. In counties and cities providing specialized court service programs prior to July one, nineteen hundred seventy-three 1, 1973 , as provided in §§16.1-234 and 16.1-235, and under the rules of the Department the traveling expenses incurred by a probation officer, court service officer or other officer of the court when traveling under the order of the judge, shall be paid out of by the county or city treasury ; provided that one half of such compensation shall be reimbursed to the city or county by the State Treasurer out of funds appropriated in the general appropriation act for criminal costs out of funds provided pursuant to § 16.1-322.2 .

§ 16.1-275. Physical and mental examinations and treatment; nursing and medical care. The juvenile court or the circuit court may cause any child within its jurisdiction under the provisions of this law to be physically examined and treated by a physician or to be examined and treated at a local mental health center ; . If no such appropriate facility is available locally, the court may order the child to be examined and treated by any physician or psychiatrist or examined by a clinical psychologist. The Commissioner of Mental Health and Mental Retardation shall provide for distribution a list of appropriate mental health centers available throughout the State Commonwealth . Upon the written recommendation of the physician or psychiatrist the court shall have the power to send any such child to a State state mental hospital for not more than thirty days for the purpose of obtaining a recommendation for the treatment of the child ; provided, however, . No child sent to a State state mental hospital pursuant to this provision , however, shall be held or cared for in any maximum security unit where adults determined to be criminally insane reside, but such child shall be kept separate and apart from such adults.

Whenever the parent or other person responsible for the care and support of a child is determined by the court to be financially unable to pay the costs of such examination as ordered by the juvenile court or the circuit court, such costs may be paid by the county or city according to standards ; and procedures and rates adopted by the State Board ; from funds appropriated in the general appropriation act for the Department from criminal costs distributed pursuant to § 16.1-322.2 .

The juvenile court or the circuit court may cause any child within its jurisdiction who is alleged to be delinquent or in need of services to be placed in the temporary custody of the Department of Corrections for a period of time not to exceed thirty days for diagnostic assessment services after the adjudicatory hearing and prior to final disposition of his or her case ; provided, however, that . Prior to such a placement, the Department determines shall determine that the personnel, services and space are available in the appropriate correctional facility for the care, supervision and study of such child and that the child's case is appropriate for referral for diagnostic services.

Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the juvenile court or the circuit court may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise and to pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the juvenile court or the circuit court may refer the matter to the authority designated in accordance with law for the determination of eligibility for such services in the county or city in which such child or his parents have residence or legal domicile.

In any such case, if a parent who is able to do so ; fails or refuses to comply with the order, the juvenile court or the circuit court may proceed against him as for contempt or may proceed against him for nonsupport.

§ 16.1-276. Fees and travel expenses of witnesses. The judge may authorize the payment of the fees and mileage provided by law in §19.2-278 of any witness or person summoned or otherwise required to appear at the hearing of any case coming within the jurisdiction of the court, which sum shall be paid by the State Treasurer out of funds appropriated in the general appropriations act ~~for criminal costs to the Supreme Court of Virginia .~~

§ 16.1-294. Placing child on parole in foster home or with institution; how cost paid. When the child is returned to the court service unit or the local department of public welfare or social services for supervision, and, after a full investigation, the court or court service unit or local department of public welfare or social services is of the opinion that the child should not be placed in his or her home, and there are no funds available to board and maintain ~~said~~ the child, the court service unit or the local department of public welfare or social services shall arrange with the Director of the Department of Corrections for the boarding of the child in a foster home or with any private institution, society or association. The cost of maintaining such child shall be paid ~~monthly, according to the schedules prepared and adopted by the Department, by the State Treasurer, out of funds appropriated in the general appropriation act for criminal costs from funds provided pursuant to §16.1-322.2 .~~

§ 16.1-313. Construction, maintenance, etc., of detention homes or other facilities charge on counties and cities; reimbursement in part by *State Commonwealth* . A. The responsibility for the construction, renovation, purchase, rental, maintenance and operation of a detention home, group home or other residential care facility for children in need of services, delinquent or alleged delinquent youth established by a city or county or any combination thereof and the necessary expenses incurred in maintaining and operating such detention homes, group homes or other residential care facilities shall be a charge upon the county or city, or any combination thereof, as the case may be, and the county boards of supervisors or the city councils or other governing bodies shall make provision therefor.

B. The Commonwealth shall reimburse the city or county or any combination thereof, as the case may be, for:

1. Up to one-half the cost of construction, enlargement, renovation, purchase or rental of a detention home, group home or other residential care facility for children in need of services, delinquent or alleged delinquent youth hereafter constructed or enlarged by three or more counties or cities or any combination thereof for use by these localities or constructed or enlarged by the city or county or any combination thereof, upon a basis approved by the Board. ~~Provided, however, that~~ Such homes or facilities which were built prior to the enactment of this law for use by three or more counties or cities or any combination thereof for a period of at least ten years shall continue to be eligible for reimbursement under this section. ~~Provided further, that~~ No such reimbursement for costs of construction shall be had , *however*, unless the plans and specifications therefor have been submitted to the Governor and the construction has been approved by him. In the event that a county or city requests and receives financial assistance for the costs of construction of such detention home, group home or other residential care facility from the ~~Division of Justice and Crime Prevention of the State of Virginia~~ *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 construction cost of the project exclusive of land and site improvement costs, and such funds shall not be considered *State state* funds.

2. The entire reasonable cost, as determined by the State Board, for the necessary equipment, operating and transportation expenses required for the care of children held in detention homes

awaiting hearing or disposition or held in group homes or other residential care facilities. ~~Provided, however, that equipment may be purchased only if approval is first obtained in writing from the Department, or if it is required for emergencies by the appropriate authority for safety or health. As a condition of reimbursement by the State for the entire reasonable cost of such equipment, the city or county or any combination thereof, as the case may be, shall be obligated to offer such equipment to the Department and obtain its written approval prior to the disposition of same for any reason except for the replacement of obsolete by new, comparable equipment. The Department may withhold its written approval in cases where such equipment may be used elsewhere in the State or local system, facilities or institutions for the detention or confinement of juveniles, and it shall be authorized to transfer such equipment wherever it may be so used.~~

3. ~~Two thirds of the salaries of officers and employees engaged in the operation and maintenance of detention homes, group homes or other residential care facilities; provided, however, that any such home or facility which was built prior to the enactment of this law for use by three or more counties or cities or any combination thereof for a period of at least ten years and which ceases to be a regional home or facility at the end of the designated period shall receive a reimbursement of one third of the salaries of its officers and employees; provided, further, that insofar as any funds from the Division of Justice and Crime Prevention of the State of Virginia or from other public fund resources in compensating one third of the salaries of such personnel, such funds shall not be considered State funds.~~

C. ~~Requests for reimbursements under this section shall be received from local jurisdictions on a monthly basis and shall be paid in monthly installments by the State Treasurer out of funds appropriated in the general appropriation act for criminal costs.~~

D. ~~Notwithstanding the number of counties or cities, or combinations thereof, which shall use the facility, any county or city with a population of more than two hundred fifty thousand shall receive the reimbursements hereinabove provided for detention homes, and any county or city with a population of more than fifty thousand shall receive reimbursements hereinabove provided for group homes and other residential care facilities for children in need of services, delinquent or alleged delinquent youth.~~

Article 13.1 .

Funding of Local Juvenile Facilities, Programs and Certain Court Service Units .

§ 16.1-322.1- Apportionment of funds to local juvenile correctional facilities, programs and units by Department.— The Department shall apportion among the localities or commissions operating a juvenile correctional facility, program or locally-operated court service unit the monies appropriated to the Department in the general appropriation act for the support of such facilities, programs and services. Such apportionment shall be made for the two years ending respectively June 30, 1983, and June 30, 1984, and shall be based upon recommendations of the Department and approved by the General Assembly. The Department may reduce these apportionments from time to time if such facility, program or unit fails to maintain the rate of utilization established by standards of the Board or fails to comply with other Department policy or standards approved by the Board. In effecting such a reduction of funds, the Department shall not be required to comply with the provisions of Chapter 1.1:1 of Title 9 (§ 9-6.14:4 et seq.). Each locality or commission eligible to receive state funds apportioned under this section shall maintain operational and financial records which shall be open for evaluation by the Department and audit by the Auditor of Public Accounts.

§ 16.1-322.2— Apportionment of funds quarterly. — Notwithstanding any contrary provisions of law, beginning in July, 1982, state monies appropriated to the Department for the support of local juvenile correctional facilities, programs or locally-operated court service units and apportioned in accordance with § 16.1-322.1 shall be paid to localities or commissions in equal quarterly installments. If a local juvenile correctional facility, program or unit fails to maintain the rate of utilization established by standards of the Board or fails to comply with other Department policy or standards adopted by the Board, the next quarterly installment may be reduced and the difference paid into the general fund of the state treasury. In effecting such a reduction of funds, the Department shall not be required to comply with the provisions of Chapter 1.1:1 of Title 9 (§ 9.6.14:4 et seq.).

Any moneys distributed by the Commonwealth under this section which are unexpended at the end of each fiscal year shall be retained by the locality or commission and subsequently expended for operating expenses of juvenile correctional facilities, programs or units.

§ 18.2-31. Capital murder defined; punishment.—The following offenses shall constitute capital murder, punishable as a Class 1 felony:

(a) The willful, deliberate and premeditated killing of any person in the commission of abduction, as defined in § 18.2-48, when such abduction was committed with the intent to extort money, or a pecuniary benefit;

(b) The willful, deliberate and premeditated killing of any person by another for hire;

(c) The willful, deliberate and premeditated killing of any person by ~~an inmate in a penal institution as defined in § 53-10-18~~ a prisoner confined in a state or local correctional facility as defined in § 53.1-1., or while in the custody of an employee thereof;

(d) The willful, deliberate and premeditated killing of any person in the commission of robbery while armed with a deadly weapon;

(e) The willful, deliberate and premeditated killing of a person during the commission of, or subsequent to, rape;

(f) The willful, deliberate and premeditated killing of a law-enforcement officer as defined in § 9-108.1 H when such killing is for the purpose of interfering with the performance of his official duties; and

(g) The willful, deliberate and premeditated killing of more than one person as a part of the same act or transaction.

If any one or more subsections, sentences or parts of this section shall be judged unconstitutional or invalid, such adjudication shall not affect, impair or invalidate the remaining provisions thereof but shall be confined in its operation to the specific provisions so held unconstitutional or invalid.

§ 18.2-55. Bodily injuries caused by prisoners .—~~If an inmate in a penal institution as defined in §53-10-18 et seq., of the Code of Virginia~~ a prisoner confined in a state or local correctional facility as defined in § 53.1-1. or while in the custody of an employee thereof shall injure:

(a) An employee thereof, or

(b) Any other person lawfully admitted to such ~~institution~~ facility , except another ~~inmate~~ prisoner , or

(c) Any person who is supervising or working with ~~inmates~~ prisoners , or

(d) Any such employee or other person while such ~~inmate~~ prisoner is committing any act in violation of § ~~53-201~~ § 53.1-203 of the Code of Virginia, such ~~inmate~~ prisoner shall be guilty of a Class 5 felony.

§ 18.2-473.1. Communication with prisoners.—*It shall be unlawful for any person outside of any jail, other than the jailers or custodial officers in charge of the prisoners, to communicate by word or sign with any prisoner then detained in a jail. Any person violating this section shall be guilty of a Class 4 misdemeanor.*

§ 19.2-303. Suspension or modification of sentence; probation. After conviction, whether with or without jury, the court, may suspend imposition of sentence or suspend the sentence in whole or part and in addition may place the accused on probation *under such conditions as the court shall determine* .

If a person is sentenced to jail upon conviction of a misdemeanor or a felony, the court may, at any time before the sentence has been completely served, suspend the unserved portion of any such sentence, place the person on probation for such time as the court shall determine, or

otherwise modify the sentence imposed.

If a person has been sentenced for a felony to the Department of Corrections but has not actually been transferred to a receiving unit of the Department, the court which heard the case, if it appears compatible with the public interest and there are circumstances in mitigation of the offense, may, at any time before the person is transferred to the Department, suspend or otherwise modify the unserved portion of such a sentence. The court may place the person on probation for such time as the court shall determine.

§ 19.2-303.1. Fixing period of suspension of sentence.—In any case where a court suspends the imposition or execution of a sentence, it may fix the period of suspension for a reasonable time, having due regard to the gravity of the offense, without regard to the maximum period for which the defendant might have been sentenced.

§ 19.2-310. Transfer of prisoners to custody of Director of Department of Corrections. Every person sentenced by a court to ~~confinement in the State penal system~~ Department of Corrections upon conviction of a felony shall be conveyed to an appropriate receiving unit operated by the Department of ~~Corrections~~ in the manner hereinafter provided. The clerk of the court in which the person is sentenced shall forthwith transmit to the Central Criminal Records Exchange the report of dispositions required by § 19.2-390. The Central Criminal Records Exchange shall ensure that the correct CCRE number for the positively identified person arrested and charged is entered on the report of disposition of each charge and immediately transmit the report(s) to the Director of the Department of ~~Corrections~~ . The clerk of the court within thirty days from the date of the judgment shall forthwith transmit to the Director of the Department of ~~Corrections~~ a certified copy or copies of the order of trial and a certified copy of the complete final order, and if he fails to do so he shall forfeit one hundred dollars. Such copy or copies shall contain, as nearly as ascertainable, the birth date of the person sentenced. The ~~jailer or~~ sheriff shall certify to the Director of the Department of ~~Corrections~~ any jail credits to which the person to be confined is entitled at such time as that person is transferred to the custody of the Director of the Department of ~~Corrections~~ .

Following receipt of the report of disposition, the Director or his designee shall dispatch a ~~guard~~ *correctional officer* to the county or ~~corporation~~ *city* with a warrant directed to the sheriff authorizing him to deliver the ~~convict prisoner~~ to the ~~guard~~ *correctional officer* whose duty it shall be to take charge of the person and convey him to an appropriate receiving unit designated by the Director or his designee. Under no circumstances shall persons be conveyed to the receiving unit or units of the ~~State penal~~ *state corrections* system beyond the maximum capacity of the unit or units as established by the Director ; ~~in this regard,~~ . The Director or his designee shall allocate space available in the receiving unit or units by giving first priority to the ~~transportation,~~ as the ~~transportation facilities of the Department of Corrections~~ may permit, of those persons held in jails who in the opinion of the Director or his designee require immediate transportation to a receiving unit.

Code of Virginia

Title 53.1.

Prisons and Corrections Services.

Chapter 1.

Administration Generally.

Article 1.

General Provisions.

§ 53.1-1. Definitions.—*As used in this title unless the context requires otherwise or it is otherwise provided:*

“Board” or “State Board” means the State Board of Corrections.

“Department” means the Department of Corrections.

“Director” means the Director of the Department of Corrections.

“Community correctional facility” means any group home, half-way 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.

“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.

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

“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. This term shall include “penitentiary” whenever used in this title or other titles of the Code.

Sources: §§ 53-19.5, 53-19.18, 53-19.18:1, 53-19.23.

Revisor's Note: The definitions of “community correctional facility,” “local correctional facility” and “state correctional facility” are new, having been broken out from the definition of “correctional institution” previously found in § 53-19.18. There is no substantive change in the remainder of the definitions.

Article 2.

State Board of Corrections.

§ 53.1-2. Appointment of members; terms and vacancies.—*There shall be a State Board of Corrections 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. 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.

Sources: §§ 53-19.23, 53-19.24.

Revisor's Note: Deletes reference to definition of “State Board”. This is covered by § 53.1-1. Deletes reference to appointments being confirmed by the General Assembly. This is covered by § 2.1-42.1. Deletes reference to members serving at Governor's pleasure. This is covered by § 2.1-43.

§ 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.

Source: § 53-19.32.

Revisor's Note: No change.

§ 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.

Sources: §§ 53-19.25, 53-19.29, 53-19.30, 53-19.31.

Revisor's Note: Deletes reference to permission for the Board to elect a vice chairman.

§ 53.1-5. Powers and duties of Board.—The Board shall have the following powers and duties:

1. To develop and establish program and fiscal standards and goals governing the operation of state, local and community correctional facilities and community correctional services;

2. To ensure the development of long-range programs and plans for corrections services provided at the state and local levels;

3. To review and comment on all budgets and requests for appropriations for the Department prior to their submission to the Secretary of Public Safety and the Governor and on all applications for federal funds;

4. To monitor the activities of the Department and its effectiveness in implementing the standards and goals of the Board;

5. To advise the Governor, Secretary of Public Safety, Director and General Assembly on matters relating to corrections;

6. 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 administered by the Director or the Department; and

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

Sources: §§ 53-19.33, 53-19.34, 53-19.39.

Revisor's Note: Paragraphs 1, 2, 4 and 7 are new language.

§ 53.1-6. Board may administer oaths, conduct hearings and issue subpoenas. The Board in the exercise and performance of its functions, duties and powers under the provisions of this title is authorized to hold and conduct hearings, issue subpoenas requiring the attendance of witnesses and the production of records, memoranda, papers and other documents, to administer oaths and to take testimony thereunder.

Source: § 53-19.36.

Revisor's Note: No change.

§ 53.1-7. Board may authorize payment of certain medical expenses.—The Board may authorize the payment of medical expenses incurred by a prisoner after his release or discharge from the Department when such expenses are the result of an injury suffered by the prisoner while incarcerated and not caused by the misconduct of the prisoner.

Source: § 53-19.36:1.

Revisor's Note: No substantive change.

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. The Director shall carry out his management and supervisory powers in accordance with standards and goals of the Board.*

Source: § 53-19.5.

Revisor's Note: Deletes language enacted in 1974 for transition from Department of Welfare and Institutions to Department of Corrections. The last two sentences are new.

§ 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.

Sources: §§ 53-19.6, 53-19.7.

Revisor's Note: No substantive change.

§ 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 the system of community correctional programs and facilities;*
- 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 10 of Title 2.1 (§2.1-110 et seq.), and within the limits of appropriations made therefor by the General Assembly;*
- 4. 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, consistent with applicable standards and goals of the Board; and*
- 5. 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, consistent with applicable standards and goals of the Board.*

Sources: §§ 53-19.8, 53-19.14.

Revisor's Note: Paragraph 2 is new language.

§ 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.*

Source: § 53-19.10.

Revisor's Note: No change.

§ 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 10 of Title 2.1 (§ 2.1-110 et seq.).

Sources: §§ 53-19.11, 53-19.12.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-19.16.

Revisor's Note: No substantive change.

§ 53.1-14. Annual report.—The Director shall annually make a written report to the Governor and General Assembly. Such report shall set forth the activities of the Department and shall include a detailed statement of all expenditures by or on account of the Director, Board and Department and such other information as the Director may deem useful.

Source: § 53-19.21.

Revisor's Note: Requires the Director to submit the report to the General Assembly as well as the Governor. Deletes reference to the annual report being submitted not later than September of each year.

§ 53.1-15. Duty of Director in Board investigations; how witness paid.—When an investigation is ordered by the Board concerning any correctional facility subject to the Board's jurisdiction or concerning the conduct of persons connected therewith, the Director, 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 Director may administer an oath to such person. The Board shall have like powers to issue a summons directed to the sheriff and to direct the sheriff to enforce such summons.

The Director shall make the entry required of the clerk by § 14.1-190 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 Department.

Source: § 53-19.20.

Revisor's Note: No substantive change.

§ 53.1-16. Police power of internal investigators; training.—The Director may designate the supervisor and no more than six members of the internal investigations unit of the Department to have the same powers as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Investigators so designated shall receive the training required by the Department of Criminal Justice Services for law-enforcement personnel before exercising such powers.

Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails which is not specified in other provisions of law.

Source: § 53-19.14:1.

Revisor's Note: No substantive change.

§ 53.1-17. Defense of custodial officers.—If any correctional officer or other authorized person acting as custodian of any prisoner committed to the Department shall be arrested or indicted or otherwise 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 correctional officer or person to defend his case, if he is neither convicted nor terminated from his employment. Such compensation shall be paid from funds appropriated to the Department.

Source: § 53-19.19.

Revisor's Note: No substantive change.

Chapter 2.

State Correctional Facilities.

Article 1.

General Provisions.

§ 53.1-18. Board to have custody of property.— The Board shall have custody of both the real and personal property of state correctional facilities. The Board 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.

Source: § 53-20.

Revisor's Note: Deletes obsolete language and references to the employment of prisoners.

§ 53.1-19. Establishment of correctional institutions. The Director, subject to the approval of the Board and the Governor, shall determine the necessity for and select the site of any new state correctional facility and any land to be taken or purchased by the Commonwealth for the purposes of any new or existing state correctional facility . The Director shall have charge of the construction of any new building at any state correctional facility, shall determine the design thereof, and for this purpose may employ architects and other experts or hold competitions for plans and designs. The Director may, if he finds it practical and economical, use persons sentenced to the Department as laborers in the construction of such structures.

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

Source: § 53-76.1.

Revisor's Note: Deletes requirement that the Director consult with the Board on all contracts over \$500,000. Requires land acquired by the Board to be taken in the name of the Commonwealth.

§ 53.1-20. Commitment of convicted persons to custody of Director. Every person convicted of a felony and sentenced to the Department shall be committed by the court to the custody of the Director of the Department. 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.

Sources: §§ 53-21.1 and 53-76.3.

Revisor's Note: No substantive change.

§ 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 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 of the Code shall be committed or transferred to the custody of the Department.

2. No person who is convicted of any violation pursuant to Article 7 of Chapter 5 of Title 46.1 (§ 46.1-387.1 et seq.) 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. Notwithstanding any other provision of law, no person, whether convicted of a felony or misdemeanor, shall be transferred to the custody of the Department when the actual term of confinement to be served after judgment and sentence totals six months or less, without the consent of the Director.

Sources: §§ 19.2-310.1, 53-19.17, 53-84, 53-103, 53-135.1.

Revisor's Note: Combines the provisions of several statutes relating to the transfer of prisoners to the Department. There are no substantive changes from current law.

§ 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. If the examination reveals the person is afflicted with such disease, the court may commit the person directly to the Department.

Source: § 53-89.

Revisor's Note: Requires the physician who examines persons under this section to be licensed.

§ 53.1-23. Fingerprints, photographs and description. Photographs, fingerprints and a description of each person received by the Department shall be taken and filed for identification purposes. Subject to the provisions of §§ 19.2-387 through 19.2-392 of the Code, 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 a felony.

Source: § 53-40.

Revisor's Note: No substantive change.

§ 53.1-24. Record of convictions and register to be kept. The Director shall file and preserve a copy of the judgment furnished by the clerk of the court of conviction of each prisoner and keep a register describing the term of his confinement, for what offense, and when received into a state correctional facility. The Director may dispose of these records with the consent of the Board and the State Library in accordance with retention regulations for records maintained by the Department established under the Virginia Public Records Act (§ 42.1-76 et seq.).

Source: § 53-24.

Revisor's Note: The last sentence is new language.

§ 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.

Source: § 53-23.

Revisor's Note: The Director instead of the Board prescribes the rules provided for in this section.

§ 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.

Source: § 53-23.1.

Revisor's Note: The Director instead of the Board provides for the confiscation of illegal property.

§ 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 net profits from the operation of such stores shall be used within each institution respectively for educational, recreational or other beneficial purposes as may be prescribed by the Director.

Source: § 53-19.9.

Revisor's Note: No substantive change.

§ 53.1-28. Authority to fix discharge date; improper release. 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 thirty days prior to the date upon which such prisoner's term would normally expire.

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.

Source: § 53-37.

Revisor's Note: The second paragraph is new language.

§ 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 Secretary of Public Safety or 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 himself.

Source: § 53-39.

Revisor's Note: No substantive change.

§ 53.1-30. Who may enter interior of state correctional facilities ; searches of those entering. A. The Governor, members of the General Assembly, and members of the Board of Corrections may go into the interior of any state correctional facility. Attorneys shall be permitted in the interior of a

state correctional facility to confer with prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved. The Director shall prescribe, subject to approval of the Board, the time and conditions on which other persons may enter any state correctional facility.

B. Any person seeking to enter the interior of any state correctional facility shall be subject to a search of his person and effects. Such search shall be performed in a manner reasonable under the circumstances and may be a condition precedent to entering a correctional facility.

Source: § 53-60.1.

Revisor's Note: Provision is made for attorneys to go into state correctional facilities.

§ 53.1-31. Sale or lease of gas, oil or minerals. The Director, with the approval of the Board, is empowered to make and execute contracts, easements and leases in the name of the Commonwealth for the removal or mining of gas, oil or any valuable minerals that may be found in any real estate, title of which is vested in the Board, whenever it appears to the Board that it will be in the best interest of the Commonwealth to make such disposition of such gas, oil or mineral. 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 or any facility established pursuant to § 53.1-237. 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. The Director shall report annually to the General Assembly concerning the contracts, leases and easements entered into pursuant to the provisions of this section.

Source: § 53-19.38:1.

Revisor's Note: No substantive change.

Article 2.

Treatment and Privileges Of Prisoners.

§ 53.1-32. Treatment and control of prisoners. It shall be the general purpose of the state correctional facilities to provide proper employment, medical and mental health care and treatment, discipline and control of prisoners committed or transferred thereto. The Director shall provide a program of recreation for prisoners. The Director is authorized to make arrangements for religious services for prisoners on Sundays and at such other times as he may deem appropriate.

Sources: §§ 53-33 and 53-94.

Revisor's Note: Deletes reference to the care of prisoners with communicable diseases which is covered by § 53.1-34. Deletes reference to educational opportunities for prisoners which is covered by § 53.1-41.

§ 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 and at such 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.

Source: § 53-47.

Revisor's Note: Requires the physician who examines persons under this section to be licensed. Deletes reference to prisoners sentenced for failure to pay support not being excused from work.

§ 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.

Source: § 53-19.22:2.

Revisor's Note: Authorizes the Director rather than the Governor to move prisoners with contagious diseases.

§ 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.

Source: § 53-34.

Revisor's Note: The Director prescribes the rules governing correspondence privileges rather than the statute.

§ 53.1-36. Prisoners may assist in medical research programs. Subject to the provisions of § 37.1-234 et seq. of the Code, the Director may permit such prisoners as may volunteer to undergo experimental treatment or tests in state or federal medical research programs.

Source: § 53-57.1.

Revisor's Note: Subjects prisoner participation in medical research programs to the laws governing human experimentation.

§ 53.1-37. Furloughs generally. 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. The Board 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. 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.

D. 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.

Source: § 53-37.1.

Revisor's Note: No substantive change.

§ 53.1-38. When ineligible for furloughs. Any prisoner who is convicted of a felony included within the provisions of Chapter 4 of Title 18.2 (§ 18.2-30 et seq.) 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.

Source: § 53-37.2.

Revisor's Note: No substantive change.

§ 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 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.

Source: § 53-55.

Revisor's Note: No substantive change.

§ 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 Commonwealth's attorney for such county or city, when he is requested so to do by the superintendent or warden of a state correctional facility, appoint 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.

Source: § 53-21.2.

Revisor's Note: Deletes reference to attorneys appointed under this section not assisting prisoners in matters in which other counsel has been appointed or obtained.

Article 3.

Employment and Training of Prisoners.

§ 53.1-41. Opportunities for work and vocational training. 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 vocational training programs as operated by the Rehabilitative School Authority in accordance with § 22.1-339 et seq. of the Code. 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.

Sources: §§ 53-33, 53-57, 53-224.

Revisor's Note: Combines appropriate provisions of the three sections noted. There are no substantive changes.

§ 53.1-42. Allowance for work and disposition thereof. Every prisoner committed and transferred to the Department and thereafter confined for the sentence for which he was committed in a state or local correctional facility shall be allowed an amount to be established by the Board for each day of labor satisfactory to the superintendent or sheriff in whose charge he is. The allowance so made shall accumulate and be paid over to the prisoner upon discharge, except that an amount thereof to be determined by the Board may be drawn upon by the prisoner for such purposes as may be authorized by the regulations of the Board.

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.

Source: § 53-220.1.

Revisor's Note: Provision is made for the payment of prisoners transferred to the Department and thereafter confined in local correctional facilities. The definition of "transferred to the Department" is new.

§ 53.1-43. Pay incentives for prisoners. The Director may, subject to the approval of the Board, establish a system of pay incentives for prisoners confined in any state correctional facility. Such system may provide for the payment of a bonus to any prisoner who is assigned to employment in any position of responsibility or who performs his job in an exemplary manner.

Source: § 53-222.

Revisor's Note: The Director rather than the Board establishes a system of pay incentives for prisoners. Deletes provisions for disposition of the payments and how they are used by the prisoners.

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

Source: § 53-223.

Revisor's Note: Adds authorization to invest funds in federally-insured investments.

§ 53.1-45. Restriction on 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 shall not be sold to offices or agencies of the counties, cities and towns of the Commonwealth or on the open market.

Sources: §§ 53-63 and 53-64.

Revisor's Note: No substantive change.

§ 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.

Source: New.

§ 53.1-47. Purchases by agencies 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 which 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, volunteer lifesaving or first aid crew, rescue squad or fire department.

Source: § 53-67.

Revisor's Note: Deletes exceptions to the requirement to purchase prison articles and services which are covered by § 53.1-48.

§ 53.1-48. Exceptions as to purchases. The Director of the Division of Purchases and Supply may exempt a department, institution or agency of the Commonwealth from the provisions of § 53.1-47 in any case where, in the opinion of the Director, the article so produced or manufactured does not meet the reasonable requirements of such department, institution or agency, or the requisition made cannot be complied with completely on account of an insufficient supply of the articles or supplies required, or otherwise.

Source: § 53-69.

Revisor's Note: No substantive change.

§ 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 Director, 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.

Source: § 53-70.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-71.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-72.

Revisor's Note: No substantive change.

§ 53.1-52. Purchases to be made through Division of Purchases and Supply. All purchases of articles and services referred to in § 53.1-47 shall be made through the Division of Purchases and Supply upon requisition by the proper authority of the department, institution or agency of the

Commonwealth or of the county, district, city or town requiring such articles.

Source: § 53-68.

Revisor's Note: No substantive change.

§ 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 § 2.1-457. 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.

Source: New.

§ 53.1-54. Charges and catalogue. 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.

Sources: §§ 53-62 and 53-73.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-74.

Revisor's Note: No substantive change.

§ 53.1-56. Construction and maintenance of highways. Persons sentenced to the Department shall, so far as practicable, be employed in the construction and maintenance of the 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.

The State Highway and Transportation Commission may acquire out of the proceeds of the money, now or hereafter available for construction and maintenance of the State Highway System and secondary system, such quarries, gravel pits or plants as may in its opinion be necessary for such work. The Commission 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 Commission for the maintenance or construction of the State Highway System and secondary system.

The State Highway and Transportation Commission shall make requisition from time to time upon the Director for the number of prisoners it deems necessary for the work on the State Highway System or secondary system or for the preparation of road material for road construction and maintenance. The number of prisoners so requisitioned shall be furnished subject to availability as determined by the Director of the Department of Corrections.

Source: § 53-109.

Revisor's Note: No substantive change.

§ 53.1-57. Payments by State Highway and Transportation Commission to Director for labor. The State Highway and Transportation Commission 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 Highways and Transportation. Monthly payments by the Commission 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 Commission.

Source: § 53-109.1.

Revisor's Note: Deletes the specific wage to be paid for prisoner labor on the highways which is made subject to agreement between the two agencies. Deletes the requirement that the Department of Highways and Transportation pay \$300,000 per year in advance for such services.

§ 53.1-58. Highway employees as guards. The Director, with the consent of the State Highway and Transportation Commissioner, may appoint and authorize employees of the Department of Highways and Transportation to act as guards of prisoners when such prisoners are at work on the roads under the jurisdiction of the State Highway and Transportation Commission. Such employees shall be deemed to be acting within the scope of their official duties for the Commission when acting as guards pursuant to this section. The Director may authorize such employees to carry firearms in accordance with § 53.1-29.

Source: § 53-122.

Revisor's Note: Deletes obsolete language regarding the Bureau of Correctional Field Units. Empowers the Director to authorize highway employees to carry firearms.

§ 53.1-59. Prisoners performing work for localities. The Director is authorized to enter into agreements with the proper authorities of any county, city or town in the Commonwealth to build and maintain roads and streets and to perform such other public works as he may approve. The county, town or city for which such work is performed shall 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 county, town or city that has the use of prison labor authorized by this section shall designate the projects to be worked. It shall 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.

Source: § 53-122.1.

Revisor's Note: Deletes obsolete language regarding the Bureau of Correctional Field Units. Deletes reference to prisoners not being employed in densely populated areas. Deletes requirement that the Director approve of local employees who associate with prisoners.

§ 53.1-60. Extending limits of confinement of state prisoners for work and educational programs. The Director is authorized to establish work release programs, subject to such rules and regulations as the Board may prescribe, 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 authorized attendance or employment at such place of business, educational or related community activity program.

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 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.

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 may deduct from such wages an amount to defray the prisoner's keep and the sums specified in § 53.1-150. The balance shall be credited to the prisoner's account or sent to his family in an amount the prisoner so chooses.

When a person sentenced to the Department has also been convicted of nonsupport under the provisions of § 20-61 or has dependents receiving public assistance under any program administered by the Commonwealth or any political subdivision thereof, the Director shall have the authority to withhold from the earnings of the prisoner a portion for the support and maintenance of the prisoner's dependents. In the case of conviction under the provisions of § 20-61, the amount of the portion withheld and its disposition shall be determined by the Director consistent with any court order entered in the nonsupport proceeding against the prisoner. In the case of a prisoner who has dependents receiving public assistance, the amount of the portion withheld shall be determined by the Director, subject to approval by the Board, on the basis of the scale of suggested minimum contributions established pursuant to § 63.1-286. All funds so withheld shall be paid into the special fund created pursuant to the provisions of § 63.1-251.1.

Any prisoner who has been placed in any of the programs authorized herein shall, while outside the state correctional facility or approved 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 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.

Source: § 53-38.

Revisor's Note: Deletes reference to prisoners being supervised by a sufficient guard while employed on public property. There are no other substantive changes.

§ 53.1-61. Determination whether prisoner has dependents receiving public assistance. A. In order to determine whether a prisoner to be released for employment as provided in § 53.1-60 has dependents receiving welfare 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 department of welfare or social services for the locality where such dependents reside and the Commissioner of the State Department of Social Services of the release of such person for employment. Upon request of the local department of welfare or social services or the Commissioner of the State Department 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 welfare or social services or the Commissioner of the State Department 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 welfare or social services or the Commissioner of the State Department of Social

Services for the enforcement of support of dependents receiving welfare benefits.

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

Source: § 53-38.01.

Revisor's Note: No substantive change.

§ 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 of Title 18.2 (§ 18.2-30 et seq.), 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.

Source: § 53-38.1.

Revisor's Note: No change.

Article 4.

State Facilities for Youthful Offenders.

§ 53.1-63. Department to establish facilities for persons committed under § 19.2-311 et seq. The Department shall establish, staff and maintain state correctional facilities for the rehabilitation, training and confinement of persons committed to the Department under the provisions of § 19.2-311 et seq. Persons admitted to these facilities shall be determined by the Department to have the potential for rehabilitation through confinement and treatment therein.

Source: § 53-128.1.

Revisor's Note: Makes provision for more than one youthful offender facility. Deletes reference to such programs being developed when funds and facilities are provided by the General Assembly.

§ 53.1-64. Programs and facilities. The Department shall establish and maintain at each facility:

- 1. Programs for counseling, education and vocational training;*
- 2. Buildings sufficient to ensure the secure confinement of persons admitted to the facility; and*
- 3. Programs for the study, testing and diagnosis of the following persons:*

a. Persons committed to the Department under the provisions of § 19.2-311 et seq. and confined at a youthful offender facility for a determination as to the likelihood of their benefitting from the program of such facility ; and

b. Persons confined therein and confined elsewhere in the state corrections system under the indeterminate period of commitment authorized by § 19.2-311 et seq., to evaluate their progress periodically and to determine their readiness for release; and

c. Persons committed to the Department for diagnosis under the provisions of § 19.2-316 prior to a determination of punishment.

Source: § 53-128.2.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-128.3.

Revisor's Note: No substantive change.

§ 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 § 19.2-311 et seq., upon a finding by the Department that his intractable behavior indicates he will not benefit from the programs of a youthful offender facility.

Source: § 53-128.4.

Revisor's Note: No substantive change.

§ 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 therein 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 shall not apply to persons confined in a youthful offender facility. 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.

Source: § 53-128.5.

Revisor's Note: No substantive change.

Chapter 3.

Local Correctional Facilities.

Article 1.

Establishment and Regulation of Facilities.

§ 53.1-68. Minimum standards for local correctional facilities and personnel. The Board shall establish minimum standards for the construction, equipment, administration and operation of local correctional facilities, whether heretofore or hereafter established.

The Department of Criminal Justice Services, in accordance with § 9-170, 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 jailers 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.

Source: § 53-133.

Revisor's Note: There is no substantive change in the first paragraph. The second paragraph is new.

§ 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, 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 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 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 affected.

Source: § 53-134.

Revisor's Note: No substantive change.

§ 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 in any county in which is situated any town which maintains and operates any local correctional facility, 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 chancery practice. The governing body of each county, city or town which maintains and operates any local correctional facility 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 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.

Source: § 53-135.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-129.

Revisor's Note: No substantive change.

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.

Source: § 53-137.

Revisor's Note: No change.

§ 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.

Source: § 53-138.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-139.

Revisor's Note: The circuit court is required rather than permitted to adopt the jail of another county or city until it has access to an adequate jail.

§ 53.1-75. Procedure after adoption. The keeper of any jail so adopted for a county or city or 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 such sheriff.

Source: § 53-141.

Revisor's Note: No substantive change.

§ 53.1-76. Commitment to jail of another county or city. 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 judge of the circuit court of the county or city in which such jail is located shall certify such account to the Comptroller for payment out of the treasury as provided in § 19.2-334. 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.

Source: § 53-142.

Revisor's Note: No substantive change.

§ 53.1-77. Jurisdiction of judge or justice of adopting county or city empowered to act under § 37.1-67.1. 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 justice empowered to act under § 37.1-67.1 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 2 of Title 37.1 (§ 37.1-63 et seq.), with respect to such persons as have been committed there from the adopting county or city. Such judge or justice may perform any such act or duty at such place as if such person was confined within the jurisdiction of the adopting county or city.

Source: § 53-142.1.

Revisor's Note: No substantive change.

§ 53.1-78. Jail for Supreme Court. The jail of any county or city in which the Supreme Court of Virginia may sit may be used as a jail for such court.

Source: § 53-143.

Revisor's Note: No substantive change.

§ 53.1-79. Jails for United States prisoners. The sheriff of any county or city 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 shall be paid by the United States for the support of any such prisoner.

Source: § 53-145.

Revisor's Note: Permits rather than requires a sheriff to receive federal prisoners into his jail.

Article 3.

Funding Local Correctional Facilities and Programs.

§ 53.1-80. State reimbursement of localities for construction. The Commonwealth shall reimburse any city or county one-half of the cost of construction, enlargement or renovation of a jail constructed, enlarged or renovated upon a basis approved by the Board. No such reimbursement shall be had, however, unless the plans and specifications thereof have been submitted to the Governor and construction has been approved by him, nor shall any such reimbursement exceed the amount set forth in § 53-133.4. Such reimbursement shall be paid by the State Treasurer out of funds appropriated to the Department of Corrections.

In the event that a county or city requests and receives financial assistance for costs of construction of such jail 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.

Source: § 53-133.1.

Revisor's Note: No substantive change.

§ 53.1-81. Construction and operation of regional jail facilities.—Three or more cities, counties or towns, 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. However, any existing regional jail facilities established by only two cities, counties or towns on or before June 30, 1982, may participate under the provisions of this section. The Commonwealth shall reimburse each such locality its pro rata share up to one-half of the cost of such construction, enlargement or renovation. No such reimbursement shall be had, however, unless the plans and specifications thereof have been submitted to the Governor and the construction, enlargement or renovation has been approved by him, nor shall any such reimbursement exceed the amount set forth in § 53-133.4. Such reimbursement shall be paid by the State Treasurer out of funds appropriated to the Department.

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.

In the event that a county, city or town requests and receives financial assistance for costs of construction, enlargement or renovation of such jail 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.

Source: § 53-133.2.

Revisor's Note: No substantive change.

§ 53.1-82. Regional contracts for cooperative jailing of offenders.— Three or more counties, cities or towns, 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. However, any existing regional jail facilities established by only two cities, counties, or towns on or before June 30, 1982, 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.

When such contracts are for a period of five years or more, 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 cost of such construction, enlargement or renovation. No such reimbursement shall be had, however, unless the plans and specifications thereof have been submitted to the Governor, and the construction, enlargement or renovation has been approved by him. No such reimbursement shall exceed the amount set forth in § 53.1-83. Such reimbursement shall be paid by the State Treasurer out of funds appropriated to the Department of Corrections.

In the event that a county, city or town requests and receives financial assistance for costs of construction, enlargement or renovation of a jail facility 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.

Source: § 53-133.3.

Revisor's Note: No substantive change.

§ 53.1-83. Rate of reimbursement for construction, etc., of jails.—Each county, city or town or any combination thereof participating in the construction, renovation, or enlargement of any one jail or a regional jail facility shall be reimbursed therefor as provided in §§ 53.1-80, 53.1-81 or 53.1-82, as applicable. No such reimbursement for each county, city or town shall exceed, however, these rates:

- 1. One hundred thousand dollars for any jail or regional jail facility with a capacity of thirty-five or less beds.*
- 2. Two hundred thousand dollars for any jail or regional jail facility with a capacity of more than thirty-five beds and less than one hundred beds.*
- 3. Three hundred thousand dollars for any jail or regional facility with a capacity of one hundred beds or more.*

Source: § 53-133.4.

Revisor's Note: No change.

§ 53.1-84.—Apportionment of state funds to local correctional facilities for operating costs.—The Department shall apportion among local correctional facilities monies appropriated to the Department in the general appropriation act for the purpose of financial assistance for the confinement of persons in local facilities. Such apportionment shall be made for each of the two years ending respectively June 30, 1983, and June 30, 1984, and shall be based upon recommendations of the Department and approved by the General Assembly.

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 reasonable operating costs of its local correctional facilities and programs. "Reasonable operating costs" shall be determined in accordance with standards prescribed by the Board pursuant to § 53.1-68. Criminal costs prior to confinement shall be paid out of funds appropriated pursuant to § 19.2-332.

Notwithstanding the provisions of § 9-6.14:9, 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 subsections D, E and F of § 9-6.14:9. In the adoption of such regulations, the Board shall comply with all other requirements of the Administrative Process Act (§ 9-6.14:1 et seq.), and in any subsequent amendments thereto shall comply with all the provisions of § 9-6.14:9.

Source: New.

§ 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.

Ninety-five percent of each facility's apportionment pursuant to § 53.1-84 shall be paid by the Department to the responsible local governing body or fiscal agent of such facility in equal quarterly installments beginning July, 1982. The remaining five percent shall be held in reserve and shall be distributed only upon the written authorization of the Director of the Department. In the event of unanticipated emergencies, the Board may reallocate any portion of the five percent reserve among individual facilities. Any balance remaining in the reserve as of May 1 of each year, however, shall be promptly apportioned to each facility on a pro rata basis according to its original apportionment and paid prior to the close of the budgetary period.

Source: New.

§ 53.1-86.—Limitation on use of state funds.—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.

Source: New.

§ 53.1-87. Cost of maintenance of jails. 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.

Source: § 53-136.

Revisor's Note: No substantive change.

§ 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. 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.

Source: § 53-178.

Revisor's Note: No substantive change.

§ 53.1-89. Purchase or rental of stoves, refrigerators and related equipment. In the event it shall be necessary to provide for the jail of any city or county a cookstove for use in preparing food for prisoners, or a refrigerator for use in storing and preserving of food for prisoners, to replace any such cookstove or refrigerator or other major related items used in the preparation, preservation and storage of foods already in use at the jail that has become unserviceable, or to provide a cookstove or refrigerator or other major related items used in the preparation, preservation and storage of foods for use as additional equipment at such jail, such equipment may be purchased or leased out of state funds provided pursuant to § 53.1-85.

Source: § 53-180.

Revisor's Note: Deletes provisions for certifying the need for new equipment to the local governing body by the sheriff and reimbursement for such by Commonwealth. Payment for such equipment is made pursuant to § 53.1-85.

§ 53.1-90. Pay for United States prisoners. Each sheriff shall collect from the United States, for prisoners of the United States confined in the jail of his county or city, such amounts as shall be agreed upon by the governing body of 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, caring for, and furnishing medicine and medical attention for such prisoners.

Source: § 53-182.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-91. Pay for prisoners from other counties, cities or towns. Each sheriff shall collect from the counties, cities and towns of the Commonwealth, other than the county or city 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, 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 or city, of feeding, clothing, caring for, and furnishing medicine and medical attention for, prisoners held for such county, city, town, state or country.

Source: § 53-182.

Revisor's Note: Deletes reference to sergeants.

§ 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.

Source: § 53-183.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-93. When sheriffs to summon or employ guards and other persons; allowances therefor. 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.

Source: § 53-183.2.

Revisor's Note: Deletes reference to extra guards being paid out of the state treasury or by the local governing body.

§ 53.1-94. When paid by county or city; when by Commonwealth. 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 certified for payment out of the state treasury.

Source: § 53-183.3.

Revisor's Note: No substantive change.

§ 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, the Director may enter into a contract with such county or city, or with the appropriate authorities thereof, 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. Each such contract shall specify the responsibility of the authorities of the county or city for the care and custody of such persons and shall prescribe the compensation therefor to be paid the county or city. Compensation shall be based on the cost of providing for the care and custody of such prisoners at such jail farm, including therein only the reasonable cost of guarding, and providing necessary housing, maintenance, administrative expenses, food, clothing, medicine and medical attention for such prisoners, and shall be paid by the State Treasurer, out of the funds appropriated to the Department.

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 Director 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 the other counties, cities or towns of the Commonwealth, and from any state, other than this State, 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 reasonable cost of guarding, and providing necessary food, clothing, medicine and medical attention for prisoners held for such other county, city, state or country. The amount thereof shall be agreed upon by the governmental units involved, or, in the absence of such agreement, shall be fixed by the Director.

Source: § 53-188.

Revisor's Note: Deletes reference to sergeants.

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.

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.

Source: § 53-195.

Revisor's Note: Deletes reference to persons who fail to pay fines or costs or execute bonds being confined in a jail farm.

§ 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.

Source: § 53-197.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-198.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-198.1.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-199.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-201.

Revisor's Note: Deletes reference to authority to require persons sentenced to jail farms to work at any state correctional facility when transferred there.

§ 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.

Source: § 53-202.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-204.

Revisor's Note: No change.

§ 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. The cost of maintenance and support of a person during his confinement upon a farm and chargeable to the Commonwealth or city, as the case may be, shall not exceed the fees and costs allowed to sheriffs for keeping and maintaining such persons in confinement.

Source: § 53-204.1.

Revisor's Note: No substantive change.

Article 5.

Regional Jails and Jail Farms.

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

Source: § 53-206.1.

Revisor's Note: Deletes authority for jail farm boards to establish rules and regulations which is included in § 53.1-106. There are no other substantive changes.

§ 53.1-106. Members of jail or jail farm board; powers. A. Each regional jail or jail farm shall be supervised and managed by a board to consist of at least one representative from each political subdivision participating therein who shall be appointed by the local governing body thereof. The sheriff of each participating political subdivision shall be eligible for appointment to the jail or jail farm board.

B. The board shall have the power to:

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

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 guards 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.

Sources: §§ 53-206.1, 53-206.3, 53-206.4, 53-206.5.

Revisor's Note: Combines provisions of the noted sections. Makes sheriffs specifically eligible for appointment to jail or jail farm boards. There are no other substantive changes.

§ 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.

Source: § 53-206.4.

Revisor's Note: Deletes authority for the board to purchase land and provide stock, equipment and structures which is included in § 53.1-106. Deletes the requirement that political subdivisions pay their pro rata costs which is also included in § 53.1-106. There are no other substantive changes.

§ 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 of twenty dollars a day for each day they are in attendance on the board. Such allowance shall not exceed in any one year the sum of \$240 per member and shall be paid by the respective governing bodies.

Source: § 53-206.3.

Revisor's Note: No substantive change.

§ 53.1-109. Authority of superintendent and guards. The superintendent shall have and exercise

the same control and authority over the prisoners committed or transferred to such jail or jail farm 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 guards 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, and (ii) in conveying prisoners to and from such jail or jail farm.

Source: § 53-206.6.

Revisor's Note: No substantive change.

§ 53.1-110. 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 board may require the superintendent or guards or both to give bond in such penalty and with such security as the board may prescribe, conditioned upon the faithful discharge of the duties of their offices.

Source: § 53-206.7.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-206.8.

Revisor's Note: Deletes reference to authority to require persons sentenced to jail farms to work at a state correctional facility when transferred there.

§ 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.

Source: § 53-206.9.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-206.10.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-206.11.

Revisor's Note: Makes reference to the funding mechanism for regional jails and jail farms in new § 53.1-85.

§ 53.1-115. Payment of salaries of superintendents or jailers. The Commonwealth shall pay two-thirds of the salaries of the superintendents 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 Article 9 of Chapter 1 of Title 14.1 (§ 14.1-68 et seq.), and such article shall be applicable mutatis mutandis to superintendents of such jails.

Source: § 53-206.12.

Revisor's Note: No substantive change.

Article 6.

Duties of Sheriffs.

§ 53.1-116. What records jailer shall keep; how time deducted or added; payment of fine and costs by person committed to jail until he pays. A. The jailer shall keep a record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail. The jailer shall keep a record of each prisoner. Each prisoner shall earn good conduct credit at the rate of ten days for each twenty days served in which the prisoner has not violated the written rules and regulations of the jail. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail. 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. 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.

Source: § 53-151.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-152.

Revisor's Note: Deletes requirements that the register be monthly inspected by the local governing body, be open to the circuit court judge and be submitted to the Governor at certain times.

§ 53.1-118. Courts to fine sheriffs for failure to perform duties. If it appears to the circuit court having jurisdiction that the sheriff 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.

Source: § 53-161.

Revisor's Note: No substantive change.

§ 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. He shall receive into the jail all persons committed by the order of such courts, or under process issuing

therefrom, and all persons committed by any other lawful authority.

Source: § 53-162.

Revisor's Note: Requires the sheriff to provide officers to attend court instead of attending himself. Limits such duties to courts within his jurisdiction and as the judges may require.

§ 53.1-120. Sheriff to provide for courthouse and courtroom security; designation of deputies for such purpose. Each sheriff shall designate deputies who shall ensure that the courthouses and courtrooms within his jurisdiction are secure from violence and disruption. A list of such designations shall be forwarded to the Director of the Department of Criminal Justice Services.

Source: § 53-168.1.

Revisor's Note: No substantive change.

§ 53.1-121. Sheriffs to make monthly reports to the Director. The sheriff 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 is for violation of state law or of city or town ordinance.

If any sheriff fails to send such report within five days after the date when the report should be forwarded, the Director shall notify the sheriff of such failure. If the sheriff 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 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.

Source: § 53-169.

Revisor's Note: Deletes reference to sergeants. Deletes provision for a special category of persons imprisoned for nonpayment of fines.

§ 53.1-122. Daily records of sheriffs. Each sheriff 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.

Source: § 53-170.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-123. Other accounts, information and records as required by Board. Sheriffs shall keep such other accounts and records and furnish to the Department such information and reports as may be required by the Department.

Source: § 53-171.

Revisor's Note: Deletes reference to sergeants. Reports are made to the Department instead of the Board.

§ 53.1-124. Sheriffs to report to the courts. A. The sheriffs of the counties and cities 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. The sheriffs of the counties and cities shall report weekly to the juvenile and domestic relations district court located within that county or city concerning the identity and number of

juveniles kept in their jails and the length of time such juveniles have been incarcerated therein.

Source: § 53-172.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-125. Failure of sheriffs to comply with requirements of Board. If any sheriff 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 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 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.

Source: § 53-173.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-126. Responsibility of sheriffs for food, clothing and medicine. The sheriff 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. Invoices or itemized statements of account from each vendor of such foodstuffs, provisions, clothing and medicines shall be obtained by the sheriff and presented to the governing body of the city or county. 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.

Source: § 53-175.

Revisor's Note: Deletes reference to certified invoices accompanying requests for state reimbursements.

§ 53.1-127. Who may enter interior of local correctional facilities; searches of those entering.—A. Members of the local governing bodies which 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. 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. The sheriff or other person in charge of the facility shall prescribe the time and conditions on which 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 correctional facility.

Source: New.

Article 7.

Prisoner Programs and Treatment.

§ 53.1-128. Work forces.—The local governing body of any county, city or town may establish work forces in the county, city or town under such conditions as it may prescribe. Such work forces are authorized to work on public property or works owned, leased or operated by the

county, city or town, whether the same be located within such county, city or town, or elsewhere. Every person eighteen years of age or older who is convicted and imprisoned for any violation of a local ordinance and who is imprisoned as a punishment or for failure to pay a required fine, shall be liable to work in such work force.

Source: § 53-163.

Revisor's Note: Deletes reference to only male prisoners serving on work forces. Deletes reference to this section not affecting the authority to send minors to juvenile correctional facilities.

§ 53.1-129. Order permitting prisoners to work on state, county or city property.—The judge of 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 serving sentences imposed for misdemeanors or felonies to work on state, county or city property on a voluntary basis with the consent of the county, city or state agency involved. Such prisoners shall receive credit on their respective sentences for the work done as the court may in the order prescribe.

The judge may, by order entered of record, require a person convicted of a felony to work on state, county or city property, with the consent of the county, city or state agency involved, for such credit on his sentence as the judge may prescribe in his order.

In the event that a person other than the sheriff 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. The sheriff shall not be held responsible for any acts of omission or commission on the part of such person.

Source: § 53-165.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-130. Sheriffs not to be interested in property where work performed.—No sheriff or deputy 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.

Source: § 53-166.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-131. Provision for release of prisoner from confinement for employment, educational or other rehabilitative programs; escape; 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 of Title 20 (§ 20-61 et seq.) may, if the defendant is convicted and sentenced to confinement in jail, and if appears to the court that such offender is a proper and suitable candidate for work release, assign the offender to a work release program under the supervision of a probation officer, the office of the sheriff 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 offender assigned to such a program by the court 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, shall be guilty of a Class 2 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 2 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 rules and 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*
- 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:

“Work release” means full-time employment or participation in suitable vocational training programs.

“Educational program” means a program of learning recognized by the State Council of Higher Education, the State Board of Education or the State Board of Corrections.

“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.

Source: § 53-166.1.

Revisor’s Note: Provision is made for convicting offenders who leave the Commonwealth while on work release of escape as provided for in § 18.2-477.

§ 53.1-132. Furloughs from local work release programs.—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 which is subject to the director’s authority, to permit the offender a furlough for the purpose of visiting his home or family. Such furlough shall be for a period to be prescribed by the director, not to exceed three days.

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 2 misdemeanor. An offender who is found guilty of a Class 2 misdemeanor in accordance with this section shall be ineligible for further participation in a work release program during his current term of confinement.

Source: § 53-166.2.

Revisor’s Note: The Board instead of the Director prescribes the rules governing furloughs.

§ 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.

Source: § 53-135.2.

Revisor's Note: No substantive change.

Chapter 4.

Probation and Parole.

Article 1.

Administration Generally.

§ 53-134. Creation of Board; appointment of members; part of Department. There shall be a Parole Board which shall consist of 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. The members of the Parole Board shall serve at the pleasure of the Governor.

The Parole Board shall function as part of the Department of Corrections.

The term "Board" as used in this chapter shall mean the Virginia Parole Board.

Sources: §§ 53-230, 53-231, 53-233, 53-234.

Revisor's Note: Combines the provisions of the noted sections. There are no substantive changes.

§ 53-135. Chairman; Vice-Chairman; Secretary 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 or some other person to act as Secretary 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.

Sources: §§ 53-234 and 53-235.

Revisor's Note: No substantive change.

§ 53.1-136. Powers and duties of Board. 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;*
- 2. Release on parole, in accordance with its rules, 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;*
- 3. Revoke parole and order the reincarceration of any parolee when, in the judgment of the Board, he has violated the conditions of his parole or is otherwise unfit to be on parole;*
- 4. 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; and*
- 5. Make investigations and reports with respect to any commutation of sentence, pardon,*

reprieve or remission of fine or penalty when requested by the Governor.

Sources: §§ 53-238 and 53-265.

Revisor's Note: Paragraph 5 is from § 53-265. There are no substantive changes.

§ 53.1-137. Hearings and subpoenas. The Board is authorized to hold and conduct 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 of the Board to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder. If any person shall fail or refuse to obey any such subpoena issued by the Board or any member thereof, or shall hinder the orderly conduct and decorum of any hearing held and conducted by the Board or any member thereof, he shall be guilty of a Class 1 misdemeanor.

Source: § 53-239.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-240.

Revisor's Note: No substantive change.

§ 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 Secretary to keep the minutes of its proceedings and all other records required by law or by the Board incident to its functions, powers and duties;

2. Make use of agents and employees of the Department of Corrections as may be made available by the Director of that Department in the administration of this article. The Chairman is also authorized, within the limit of funds available for such purpose, to employ any additional agents and employees needed for the administration of this article;

3. Exercise supervision through probation and parole officers over prisoners released on conditional pardon as the Governor may require;

4. Coordinate the activities of the Board with the Director of the Department in carrying out the duties and responsibilities of this article; and

5. Cause to be prepared annually a report to the Governor on the activities of the Board.

Sources: §§ 53-241 and 53-265.

Revisor's Note: Paragraph 3 is from § 53-265. There are no substantive changes.

§ 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 appointed pursuant to the provisions of this article;

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 several circuit courts of the Commonwealth authorized to appoint probation and parole officers pursuant to the provisions of this article lists of persons suitable and qualified, in his opinion, for appointment as such officers; and

4. Coordinate with the Parole Board the activities of the Department of Corrections that relate to parole.

Source: § 53-241.1.

Revisor's Note: No change.

Article 2.

State Probation and Parole Services.

§ 53.1-141. Division into parole districts. The Director of the Department shall divide the Commonwealth into as many separate parole districts as he deems necessary to carry out the purposes of this article . The Director may change the area embraced in any parole district to conform to conditions and demands as they arise.

Source: § 53-242.

Revisor's Note: No substantive change.

§ 53.1-142. Assignments of officers to districts. There shall be at least one probation and parole officer for each parole district. The Director of the Department may temporarily assign officers appointed in one district to duties in another district, subject to the consent of the appointing judge or judges. Any officer so assigned shall have the same power and authority as an officer appointed by the judge or judges of the court or courts of such other district.

Source: § 53-243.

Revisor's Note: No substantive change.

§ 53.1-143. How officers appointed. When the area of any district lies solely in counties and cities comprising a single judicial circuit, the officer or officers shall be appointed by the judges of that circuit. When the area of a parole district lies in counties located partly in two or more judicial circuits, the probation and parole officers shall be appointed by joint action of the judges of the several circuits. If there are more than two such judges, a majority vote shall control the appointment. When the area of a parole district lies partly in counties comprising part of a judicial circuit and partly in a city having a circuit court, the appointment shall be made by the joint action of the circuit court judges, with a majority vote controlling. When a parole district lies wholly within a city, the appointment shall be made by the judges of the circuit court, a majority vote controlling.

Such appointments shall be made from lists of eligible persons submitted by the Director. If any list submitted is unsatisfactory to the judge or judges, or a majority of them having the appointing power, the Director shall, at his or their request, submit additional lists containing the names of additional eligible persons until an appointment satisfactory to the judge or judges may be made.

Whenever the appointment is to be made by two judges and they fail to agree upon an appointee or fail to notify the Director within sixty days that any list of eligible persons submitted by him is unsatisfactory, the Director shall appoint the probation and parole officer for the district involved.

Source: § 53-244.

Revisor's Note: No substantive change.

§ 53.1-144. Term of officers. *Each probation and parole officer shall be appointed initially for a term of one year. Subsequent appointments shall be for indefinite periods. Any such officer may be suspended or removed at the pleasure of the judge or judges having the appointing power. An officer may be suspended for cause by the Director, with the subsequent consent of the appointing judge or judges, for a period not exceeding thirty days.*

Source: § 53-245.

Revisor's Note: No substantive change.

§ 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, and furnish every such person with a written statement of the conditions of his probation and instruct him therein;

3. Supervise and assist all persons within his territory released on parole and, in his discretion, assist any person within his territory who has completed his parole 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 or parole, any probationer 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; and

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

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

Source: § 53-250.

Revisor's Note: No substantive change.

§ 53.1-146. Use of officers as to persons convicted of local violations . *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.*

Source: § 53-249.

Revisor's Note: No substantive change.

§ 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 10 of Title 2.1 (§ 2.1-110 et seq.). 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.

Sources: §§ 53-246 and 53-247.

Revisor's Note: Deletes reference to probation and parole officers devoting full-time to their duties.

§ 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.

Source: § 53-277.

Revisor's Note: No substantive change.

§ 53.1-149. Arrest of probationer without warrant. 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.

Source: § 53-278.5.

Revisor's Note: No substantive change.

§ 53.1-150. Contributions by persons on parole, probation, and work release; exemptions. A. Any person (i) who is placed on parole, who is granted suspension of sentence and probation by a court of competent jurisdiction, or who is participating in a work release program pursuant to the provisions of § 53.1-60, (ii) who is under the supervision of the Department, and (iii) who is gainfully employed, shall be required to contribute fifteen dollars per month toward the cost of his supervision beginning thirty days from the date he is employed.

Such sums shall be deducted by the parolee or probationer from his monthly net earned income and shall be delivered to the Department pursuant to rules and regulations adopted by the Board of Corrections. By prior agreement between an employer and parolee or probationer, an employer may deduct fifteen dollars from the monthly earned income of the parolee or probationer and remit such amount to the Department pursuant to rules and regulations adopted by the Board of Corrections. In the case of prisoners employed pursuant to § 53.1-60, such sums shall be deducted by the Director from any wages earned by the prisoners. All such funds collected by the Department shall be deposited in the general fund of the state treasury.

In the event of more than two months delinquency in making such contributions by a parolee or probationer, such delinquency may constitute sufficient grounds for revocation of his parole or probation. In the event that a probationer or parolee has made timely payments pursuant to this

subsection for a total of sixty months without revocation of his probation or parole or extension of the length of his probation or parole, then he shall have no further obligation to contribute toward the cost of his supervision for the offense or offenses for which he was originally placed on probation or parole.

B. The Virginia Parole Board may exempt a parolee from the requirements of subsection A on the grounds of unreasonable hardship, and the sentencing court may exempt a probationer from the requirements of subsection A on the grounds of unreasonable hardship. The Director may exempt a work releasee from the requirements of subsection A on the grounds of unreasonable hardship. Any parolee or probationer transferred to or from other states under the supervision of the interstate compact for the supervision of parolees or probationers shall be exempt from the requirements of subsection A.

Source: § 53-19.40

Revisor's Note: No substantive change.

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 under the laws of this Commonwealth to the Department of Corrections 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.

Only prior commitments interrupted by a person's being at liberty, or resulting from the commission of a felony while in a state correctional facility, shall be included in determining the number of times such person has been convicted, sentenced and committed for the purposes of paragraphs 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.

B. Persons sentenced to die shall not be eligible for parole.

C. Persons sentenced to life imprisonment for the first time shall be eligible for parole after serving fifteen years.

D. A person who has been sentenced to two or more life sentences, except a person to whom the provisions of subsection E of this section are applicable, shall be eligible for parole after serving

twenty years of imprisonment.

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.

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 of 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 paragraphs 2, 3 and 4 of subsection A shall apply only to persons committed to the Department of Corrections on or after July 1, 1979.

Sources: §§ 53-251 and 53-272.

Revisor's Note: Subsection F is from § 53-272. There are no substantive changes.

§ 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.

Source: § 53-251.1.

Revisor's Note: No substantive change.

§ 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:

1. The total sentences to be served, exclusive of fines are more than twelve months; and

2. Such jail inmates are incarcerated by transfer or commitment to state correctional facilities as set forth in § 53.1-151.

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.

Source: § 53-251.2.

Revisor's Note: No substantive change.

§ 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 during the part of the calendar year in which he becomes eligible for parole, and thereafter during the same part of each ensuing calendar year, until he is released on parole or discharged. 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 during the 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 during the same part of each ensuing calendar year until he is released on parole or discharged, unless there be reasonable cause for extension of the time within which to review and decide his case. The Board may, in addition, review the case of any prisoner eligible for parole at any other time. Hearings by the Board may be either public or private.

Sources: §§ 53-252 and 53-254.

Revisor's Note: No substantive change.

§ 53.1-155. Investigation prior to release. 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 interest of society or of the prisoner. The provisions of this section shall not be applicable to persons discharged on parole pursuant to § 53.1-159.

Source: § 53-253.

Revisor's Note: The last sentence is new.

§ 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 served in confinement by the paroled prisoner 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.

Sources: §§ 53-255 and 53-256.

Revisor's Note: No substantive change.

§ 53.1-157. Parolees to comply with terms; furnishing copies. Each parolee while on parole shall comply with such terms and conditions as may be prescribed by the Board. When any prisoner is released on parole, the Board shall furnish the parolee and the probation and parole officer having supervision of the parolee a copy of the terms and conditions of the parole and any changes which may from time to time be made therein.

Source: § 53-257.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-264.

Revisor's Note: No substantive change.

§ 53.1-159. Discharge 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 discharged on parole by the Virginia Parole Board when six months remain in the person's sentence until his date of final discharge. Each person so sentenced or committed, however, shall serve a minimum of three months of his sentence prior to such a discharge. Such persons who are so discharged on parole shall be subject to a minimum of six months' supervision and such an additional period of parole as the Board deems appropriate in accordance with § 53.1-156.

No person released on parole pursuant to § 53.1-136 and whose parole is subsequently revoked shall be discharged on parole pursuant to this section until at least six months have elapsed from the date of the decision revoking his parole. No person discharged on parole pursuant to this section, whose parole is subsequently revoked shall thereafter be discharged on parole pursuant to this section.

Source: § 53-251.3.

Revisor's Note: No substantive change.

§ 53.1-160. Notice to be given prior to release of prisoners. Prior to the release or discharge of any prisoner, the Department shall have notice of the release or discharge delivered by first class mail to the court which committed the person to the Department of Corrections and to the sheriff, chief of police and Commonwealth's attorney (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 (i) and (ii), of the jurisdiction in which the person intends to reside subsequent to being released or discharged.

Source: § 53-265.1.

Revisor's Note: Adds requirement that notice be given when prisoners are discharged.

§ 53.1-161. Arrest and return of parolee; 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 of any of the terms or conditions upon which he was released on parole, issue or cause to be issued, a warrant for the arrest and return of such parolee to the institution from which he was paroled, or to any other correctional facility which may be designated by him. Each such warrant shall authorize all officers named therein to arrest and return such 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 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.

Source: § 53-258.

Revisor's Note: No substantive change.

§ 53.1-162. Arrest of parolee without warrant. Any probation and parole officer may arrest a parolee 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 has, in the judgment of the probation and parole officer, violated one or more of the terms or conditions of his parole. 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.

Source: § 53-259.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-260.

Revisor's Note: No substantive change.

§ 53.1-164. Procedure for return of parolee. When any parolee is returned to any facility in accordance with the provisions of § 53.1-161, he shall be held in accordance with rules of the Board of Corrections 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 return.

Source: § 53-261.

Revisor's Note: The Director rather than the Board is notified of the return of parolees.

§ 53.1-165. Revocation of parole; hearing; procedure for parolee in another state; appointment of attorney. A. Whenever any parolee 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 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 Commonwealth's attorney 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 shall conduct a hearing, consider the case and act with reference thereto within a reasonable time thereafter. Upon request of the Board, the Commonwealth's attorney 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.

B. In cases in which a parolee 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.

Source: § 53-262.

Revisor's Note: Preliminary hearings are required rather than permitted for violations of parole, except in cases where a nolle prosequi is to be entered.

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.

Source: § 53-288.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-289.

Revisor's Note: No change.

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 of this chapter (§ 53.1-166 et seq.) 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.

Source: § 53-290.1.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-290.2.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-290.3.

Revisor's Note: No change.

§ 53.1-171. Record of hearing. A record of the hearing held pursuant to this article shall be made and preserved.

Source: § 53-290.4.

Revisor's Note: No change.

§ 53.1-172. Hearings for parolees or probationers being supervised in another state. In any case of alleged parole or probation violation by a person being supervised in another state pursuant to the Interstate Compact for Out-of-State Supervision of Parolees or Probationers, 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 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.

Source: § 53-290.5.

Revisor's Note: No change.

§ 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.

Source: § 53-290.7.

Revisor's Note: No substantive change.

§ 53.1-174. Preliminary hearings by other states. In any case in which any person placed on parole by Virginia is present in another state, if such person is not present in such other state pursuant to the provisions of Article 4 (§ 53.1-166 et seq.), 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, 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.

Source: § 53-290.8.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-290.9.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-290.10.

Revisor's Note: No substantive change.

Chapter 5.

Community Correctional Facilities and Programs.

Article 1.

Community Facilities for Parolees and Probationers.

§ 53.1-177. Authority of Director. 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.

Source: § 53-128.6.

Revisor's Note: Deletes authority for the Director to promulgate rules and regulations for these facilities.

§ 53.1-178. Board to establish standards. The Board 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.

Source: § 53-128.6.

Revisor's Note: The Board, rather than the Director, establishes minimum standards.

§ 53.1-179. Purchase of services authorized. The Director, pursuant to rules and regulations of the Board, may purchase temporary room and board and training, counseling and rehabilitation services for probationers and parolees whom the Director deems to be in need of and eligible for such benefits and services. Implementation of this provision shall conform with the requirements of all locally-adopted zoning regulations.

Source: § 53-128.6.

Revisor's Note: No substantive change.

Article 2.

Community Diversion Incentive Act.

§ 53.1-180. Purpose. It is the purpose of this article to enable localities to develop, establish and maintain community diversion programs to provide the judicial system with sentencing alternatives for certain nonviolent offenders who may require less than institutional custody but more than probation supervision.

The article shall be interpreted and construed so as to effect the following purposes:

1. To allow individual localities greater flexibility and involvement in responding to the problem of crime in their communities;

2. To provide more effective protection of society and to promote efficiency and economy in the delivery of correctional services;

3. To provide increased opportunities for offenders to make restitution to victims of crimes through financial reimbursement or community service;

4. To permit communities to operate programs specifically designed to meet the rehabilitative needs of selected offenders; and

5. To provide appropriate post-sentencing alternatives in localities for certain offenders with the goal of reducing the incidence of repeat offenders.

Source: § 53-128.16.

Revisor's Note: Deletes reference in paragraph 4 to use of this program in lieu of inappropriate placements. Deletes reference in paragraph 5 to post-sentencing alternatives being in addition to probation supervision.

§ 53.1-181. Authority of Director; use of supervised probation not to be decreased. The Director is authorized to assist a county or city or combination thereof to develop and enter into contracts to establish, pursuant to the provisions of this article, community diversion programs to provide the judicial system with sentencing alternatives for those offenders sentenced to incarceration but who may require less than confinement in a state or local correctional facility. The Director is authorized to provide direct incentive funding to such localities to establish, operate or purchase community diversion programs and services. Such funding shall be used for the development or improvement of community-based services for offenders who may be diverted from state and local correctional facilities, but shall not be used for capital expenditures.

It is the intention of this article that the use of supervised probation for offenders not be decreased by the use of the sentencing alternatives authorized herein. Contracts entered into under provisions of this chapter shall not be utilized in lieu of supervised probation.

Source: § 53-128.17.

Revisor's Note: No substantive change.

§ 53.1-182. Board to prescribe standards. The Board shall prescribe standards for the development, operation and evaluation of programs and services authorized by this article.

Source: § 53-128.18.

Revisor's Note: No substantive change.

§ 53.1-183. Community corrections resources boards. Each county and city participating in a community diversion program shall be represented on a community corrections resources board. The board shall include an equal number of appointments to be made by the county or city governing body or combination thereof. The membership of the board shall include two persons appointed by each circuit court serving the jurisdiction or jurisdictions participating on the board and one person appointed by the regional administrator of the Department serving the jurisdiction or jurisdictions participating on the board.

Source: § 53-128.19

Revisor's Note: Provision is made for each circuit court rather than the circuit court judge to make appointments to the board. The regional administrator of Corrections appoints a person to serve on the board and is not limited in his appointments to employees of the regional office.

§ 53.1-184. Withdrawal from program. Any participating county or city may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Director of its intention to withdraw from the community diversion program. Such withdrawal shall be effective as of the last day of the quarter in which such notice is given.

Source: § 53-128.20.

Revisor's Note: No substantive change.

§ 53.1-185. Responsibilities of community boards. It shall be the responsibility of community corrections resources boards to:

1. Provide for the purchase or development of community services and programs for use by the courts in diverting offenders from state and local correctional facility placements;

2. Assist community agencies and organizations in establishing and modifying programs and services for offenders on the basis of an objective assessment of the community's needs and resources;

3. Evaluate and monitor community programs and services to determine their impact on offenders;

4. Provide a mechanism whereby all offenders with needs for services will be linked to appropriate services;

5. Attempt to resolve agency policies and procedures that make it difficult for offenders to receive services;

6. Upon referral to the board of individual offenders by any circuit court, determine whether an appropriate, rational behavioral contract can be developed with the offenders for participation in a community diversion program; and

7. Provide the judge of the referring circuit court with the findings and recommendations of the board made on individual offenders pursuant to paragraph 6 hereof.

Source: § 53-128.21.

Revisor's Note: The board acts on referral from "any" circuit court rather than "the" circuit court.

Chapter 6.

Commencement of Terms; Credits and Allowances.

Article 1.

General Provisions.

§ 53.1-186. Term commences from date of 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.

Sources: §§ 53-207 and 53-272.

Revisor's Note: The second paragraph is from § 53-272. There are no substantive changes.

§ 53.1-187. Deduction of time of 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 or in a state or local correctional facility awaiting trial, or pending an appeal. 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 prisoner be allowed credit for time not actually spent in confinement. In no case is a prisoner 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.

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 and 3 of this chapter.

Source: § 53-208.

Revisor's Note: No substantive change.

§ 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.

Sources: §§ 53-209 and 53-215.

Revisor's Note: No substantive change.

§ 53.1-189. Forfeiture and restoration of good conduct allowance.—A. Except for credits allowed under § 53.1-191, all or any part of a person's accrued good conduct allowance earned after admission to a state correctional facility on any sentence or combination of sentences being served may be forfeited in accordance with rules and regulations of the Board 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 on any sentence or combination of sentences being served, except for credits allowed under § 53.1-191.

C. No good conduct allowance which has been forfeited shall be restored except by the Director, whose authority shall not be delegated. The Director shall report to the Governor pursuant to § 53.1-14 regarding the restoration of good conduct allowance.

Source: § 53-214.

Revisor's Note: No substantive change.

§ 53.1-190. Allowance on discharge; transportation.—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.

Source: § 53-219.

Revisor's Note: Deletes incorrect reference to funds accumulated pursuant to § 53-220 (§

53.1-191).

§ 53.1-191. Credits allowed in cases of injuries to or extraordinary services performed by prisoners.—The Board, with the consent of the Governor, may allow to any prisoner confined in a state correctional facility a credit toward his term of confinement if he (i) renders assistance in preventing the escape of another prisoner or in the apprehension of an escaped prisoner; (ii) gives a blood donation to another prisoner; (iii) voluntarily or at the instance of a prison official renders other extraordinary services; or (iv) suffers bodily injury while in the prison system. The Board shall determine the amount of any such credit for each such service or injury. A prisoner shall receive credit for donating blood, under regulations prescribed by the Board, to blood banks licensed by or subject to regulations of the State Board of Health.

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.

Source: § 53-220.

Revisor's Note: No substantive change.

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 of this chapter (§ 53.1-198 et seq.).

Source: New.

§ 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.

Source: § 53-210.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-211.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-212.

Revisor's Note: No substantive changes.

§ 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.

Source: § 53-213.

Revisor's Note: No substantive change.

§ 53.1-197. Credit allowed for vocational or educational training.—Every person sentenced to the Department, while in a local or state correctional facility, who participates in vocational or educational 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 vocational or educational 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.

Source: § 53-213.1

Revisor's Note: No substantive change.

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.

Source: § 53-209.1.

Revisor's Note: No substantive change.

§ 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.

A person who has been sentenced to a term of life imprisonment or two or more life sentences shall be classified within the system established by § 53.1-201. Such person shall be eligible for no more than ten days good conduct credit for each thirty days served, regardless of the class to which he is assigned. One-half of such credit shall be applied to reduce the period of time he shall serve before being eligible for parole. Additional good conduct credits may be approved by the Board for such persons in accordance with § 53.1-191.

Source: § 53-209.2.

Revisor's Note: No substantive change.

§ 53.1-200. Conditions for good conduct allowance.—Rules and regulations approved by the Board shall govern the earning of good conduct allowance. 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.

Source: § 53-209.3.

Revisor's Note: No change.

§ 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.

Source: § 53-209.4.

Revisor's Note: No change.

§ 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.

Source: § 53-209.5.

Revisor's Note: No substantive change.

Chapter 7.

Crimes and Criminal Proceedings Involving Prisoners.

Article 1.

Crimes By Prisoners.

§ 53.1-203. Felonies by prisoners. 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 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 (§ 54-524.1 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 publicly-owned personal property, within any correctional facility; or

9. Conspire with another prisoner or other prisoners to commit any of the foregoing acts.

For violation of any of the provisions of this section, the prisoner shall be guilty of a Class 6 felony. If the violation is of paragraph 1 of this section and the escapee is a felon, he shall be sentenced to a minimum of one year's confinement, which sentence shall not be served concurrently 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. 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.

Source: § 53-291.

Revisor's Note: No substantive change.

§ 53.1-204. If prisoner commit 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.

Source: § 53-294.

Revisor's Note: No substantive change.

§ 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.

Sources: §§ 53-295 and 53-300.

Revisor's Note: Deletes special procedures for the trial of crimes committed by prisoners and jurisdiction over such offenses in the Circuit Court of the City of Richmond.

Article 2.

Prisoners as Witnesses or Charged With Other Crimes.

§ 53.1-206. When prisoner surrendered as witness. 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.

Source: § 53-301.

Revisor's Note: No substantive change.

§ 53.1-207. Cost of transportation. All transportation and other costs incident thereto shall be paid by the authority requesting the prisoner.

Source: § 53-302.

Revisor's Note: No change.

§ 53.1-208. Prisoners indicted or charged with crime outside Virginia. 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 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.

Source: § 53-303.

Revisor's Note: Authorizes the Governor to prescribe the circumstances under which a prisoner may be returned to Virginia after being tried for a crime outside Virginia.

§ 53.1-209. Foreign prisoners to be held in Virginia. Pursuant to the order or request of the Governor, of any court, Commonwealth's attorney 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.

Source: § 53-304.

Revisor's Note: No substantive change.

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.

ARTICLE II.

As used in this agreement:

(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 one hundred eighty 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 one hundred twenty 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.

Source: § 53-304.1.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-304.2.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-304.3.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-304.5.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-304.6.

Revisor's Note: No substantive change.

§ 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.

Source: § 54-304.7.

Revisor's Note: No change.

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 the mentally ill or mentally defective, 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.

Source: § 54-304.9.

Revisor's Note: No substantive change.

§ 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.

Source: § 54-304.10.

Revisor's Note: No substantive change.

Chapter 10.

Commitment of Aliens.

§ 53.1-218. Duty of officer in charge to inquire as to nationality. Whenever any person is committed to a correctional facility, it shall be the duty of the director, sheriff or other officer in charge of such facility to inquire at once into the nationality of the person.

If it appears that the person is an alien, the director, sheriff or other officer in charge of the facility shall immediately notify the United States immigration officer in charge of the district in which the facility is located. The immigration officer shall be informed of the date of and the reasons for such alien's commitment, the length of time for which committed, the country of which he is a citizen, his age, and, if known, the date and vessel, vehicle or aircraft on which and the place at which he last entered the United States.

Sources: §§ 54-313 and 54-314.

Revisor's Note: No substantive change.

§ 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, 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.

Source: § 54-315.

Revisor's Note: No substantive change.

§ 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.

Source: § 54-315.1.

Revisor's Note: No change.

Chapter 11.

Estates of Prisoners.

§ 53.1-221. Appointment of committee. 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 Title 26.

Sources: §§ 53-305, 53-306, 53-307.

Revisor's Note: Reference to committees being subject to provisions of Title 26 is new. There are no substantive changes.

§ 53.1-222. Powers and liabilities of committee. A committee appointed pursuant to § 53-305 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.

Source: § 53-307.

Revisor's Note: Deletes authority for the committee to retain his own debt as an administrator which is covered by the reference in § 53.1-221 to Title 26.

§ 53.1-223. Restriction on suits against prisoners. No action or suit on any claim or demand shall be instituted against a prisoner after judgment of conviction and while he is incarcerated, except through his committee.

Source: § 53-307.1

Revisor's Note: No substantive change.

§ 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.

Source: § 53-308.

Revisor's Note: Makes provisions of the section sex neutral.

§ 53.1-225. Delivery of estate to prisoner when released. 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.

Source: § 53-310.

Revisor's Note: Adds requirement that the committee file with the circuit court a statement of accounts within 10 days of the prisoner's release. Requires the committee to request the circuit court to discharge him from his duties.

§ 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.

Source: § 53-311.

Revisor's Note: Deletes reference to sergeants.

§ 53.1-227. When and how real estate of prisoner sold. The real estate of a prisoner may be leased or sold, when necessary for the payment of his debts, in the same manner as the real estate of an incompetent person in the hands of a committee. 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, in the same manner as the real estate of an incompetent person in the hands of a committee.

Source: § 53-312.

Revisor's Note: No substantive change.

§ 53.1-228. Disposal of unclaimed personal property of prisoner.—If any prisoner in a state, local or community correctional facility, upon being released or having escaped, leaves personal property valued at less than \$100 in the custody of such facility for six months after his release or escape without making a claim therefor, 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.

Source: § 53-312.1.

Revisor's Note: No substantive change.

Chapter 12.

Executive Clemency.

§ 53.1-229. Powers vested in Governor. In accordance with the provisions of Section 12 of Article V of the Constitution of Virginia, the power to commute capital punishment and to grant pardons or reprieves is vested in the Governor.

Source: § 53-228.

Revisor's Note: References applicable provision of the Constitution of Virginia.

§ 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.

Source: § 53-228.1.

Revisor's Note: Deletes reference to Governor not granting pardons before conviction which is covered by the Constitution of Virginia.

§ 53.1-231. Investigation of cases for executive clemency. 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.

Source: § 53-229.

Revisor's Note: No substantive change.

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 resented 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.

Source: § 53-316.

Revisor's Note: No substantive change.

§ 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 within the confines of the state correctional facility in Richmond known as the Penitentiary. The death chamber shall have all the necessary appliances for the proper execution of prisoners by electrocution. In the death chamber shall be executed all prisoners upon whom the death penalty has been imposed. Each execution shall be conducted by the Director, or one or more assistants designated by him.

Source: § 53-317.

Revisor's Note: No substantive change.

§ 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. Not less than fifteen days before the time fixed in the judgment of the court for the execution of the sentence, the Director shall cause to be conveyed to the Penitentiary in Richmond the condemned prisoner.

The Director, or the assistants appointed by him, shall at the time named in the sentence cause the prisoner under sentence of death to be electrocuted until he is dead unless a suspension of execution be ordered. 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.

Source: § 53-318.

Revisor's Note: Deletes references to the guards who accompany condemned prisoners and how they are paid.

§ 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.

Source: § 53-319.1.

Revisor's Note: No substantive change.

§ 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.

Source: § 53-323.

Revisor's Note: Requires application for the remains to be made within three days.

Chapter 14.

Correctional Programs and Facilities for Juveniles.

Article 1.

Care of Children Committed to Department.

§ 53.1-237. Authority of Department as to children committed to it. The Department is authorized and empowered to receive children committed to it by the courts of the Commonwealth pursuant to § 16.1-279. The Department shall establish, staff and maintain facilities for the rehabilitation, training and confinement of such children. The Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or counties maintaining places of detention for children, for the temporary care of such children.

Sources: §§ 53-324 and 53-330.

Revisor's Note: No substantive change.

§ 53.1-238. Titles for child-care facilities. The Board shall have authority to give appropriate titles to the facilities established and operated by the Department under this chapter.

Source: § 53-330.

Revisor's Note: No substantive change.

§ 53.1-239. Allowance for maintenance of children placed by Commonwealth. For the maintenance of each child committed to the Department and placed by it in a private home or in a facility other than one operated by the Commonwealth, there shall be paid by the Commonwealth out of funds appropriated to the Department a per diem allowance which shall be established by the Board. The cost of such care shall not exceed that amount which would be incurred if the services required by the child were provided in a juvenile facility operated by the Department.

Source: § 53-325.

Revisor's Note: No substantive change.

§ 53.1-240. Schedules of per diem cost of maintenance in detention homes; reimbursements of cities and counties. The Board shall establish schedules setting forth the per diem cost to each

locality for maintaining a child in a detention home. In accordance with the schedule the Board shall, in addition to all other reimbursements on account of such detention homes, reimburse each city or county for the cost of maintaining in such homes any children committed to the Department.

Source: § 53-326.

Revisor's Note: No substantive change.

§ 53.1-241. Acceptance and expenditure of certain funds for children committed to Department. The Department is authorized to accept and expend for the benefit of any child committed to it, or for reimbursement purposes, any funds made available from any source, solely for the current maintenance and support of any such child, whether such funds be provided by the child's parents, or other person, or by the Veterans Administration, the Railroad Retirement Act, the old age and survivor's insurance provisions of the federal Social Security Act, as amended, or from any other source. In no event shall the sums so accepted exceed an amount in excess of the cost to the Department of supporting the child.

Source: § 53-327.

Revisor's Note: No substantive change.

§ 53.1-242. Disposition of property left by child. If any child, having been in the custody of the Department by virtue of § 16.1-279, upon being released or having escaped therefrom leaves any personal property valued at less than \$100 in the custody of the Department for six months after his release or escape, the Director may sell such personal property at public sale or otherwise dispose of the property. The proceeds of such sale shall be kept for one year from the date of the child's attaining the age of majority. Thereafter, any unclaimed proceeds shall be paid into the state treasury and credited to the Literary Fund.

Source: § 53-327.1.

Revisor's Note: Authorizes the Director to dispose of property valued at less than \$100 and held for 6 months. Requires the proceeds to be kept until the child is 19 years of age.

§ 53.1-243. Examination and placing of such children. The Department shall make a careful physical and mental examination of every child committed to it by the courts, investigate the personal and family history of the child and his environment, and place such children at such facilities as are available and approved by the Board. Any children committed to the Department and afterwards found to be eligible for commitment by proper proceedings to any state hospital or training center for the mentally retarded shall take precedence as to admission over all others and shall in all cases be received into the state hospital or training center within forty-five days.

Source: § 53-328.

Revisor's Note: No substantive change.

§ 53.1-244. Behavioral services unit. To assist in the performance of the duties imposed by § 53.1-243, the Department shall maintain a behavioral services unit and employ as director thereof a clinically competent person. The Department shall also employ such other medical, technical and clinical personnel skilled in the diagnosis and treatment of physical and mental diseases of children as may be desirable for the operation of such unit. The personnel of the unit, when visiting the various facilities maintained by the Department for the care of children committed to the Department shall conduct a thorough examination of each child at such facilities not theretofore examined by the unit, and other children at the facilities for whom such examination is indicated. Such examination shall be for the purpose of determining, diagnosing and treating physical, mental and learning ailments or impairments with a view to improving the general functioning of such children and hastening their rehabilitation.

Source: § 53-329.

Revisor's Note: Renames the psychiatric clinic the behavioral services unit. Adds learning

impairments to those covered by an examination.

§ 53.1-245. Observation of mentally ill and mentally retarded children. After commitment of any child to the Department, if the Department finds, as a result of psychiatric examinations and case study, that such child is mentally ill or mentally retarded, it shall be the duty of the Department to obtain treatment for the child's mental condition. If the Department determines that transfer to a state hospital, training center, or other appropriate treatment facility is required to further diagnose or treat the child's mental condition, the proceedings shall be in accordance with the provisions of § 37.1-65.1 or §§ 37.1-67.1 through 37.1-67.4. No child transferred to a state hospital pursuant to this section or the provisions of Title 37.1 shall, however, be held or cared for in any maximum security unit where adults determined to be criminally insane reside, but such child shall be kept separate and apart from such adults.

Source: § 53-329.1.

Revisor's Note: No change.

§ 53.1-246. Superintendents and agents of facilities to have powers of sheriff. The superintendents of the facilities established by the Department pursuant to § 53.1-237 and their authorized agents shall have the powers of a sheriff for the purpose of preserving order at their facilities and for the conveyance of children committed to their care to and from such facilities.

Source: § 53-332.

Revisor's Note: No substantive change.

§ 53.1-247. Allowance for work done by children. The Director may allow every child in any facility established by the Department to receive children committed to the Department, a daily allowance in an amount established by the Board. Additional allowance may be made by the Director to provide necessary funds for incidental needs for required activities in schools, foster care and other special placements for other special activities that such children would normally be engaged in resulting from their placement. The allowance so made may be drawn upon by the child for such purposes as may be authorized by the regulations of the Board.

Source: § 53-333.

Revisor's Note: No change.

§ 53.1-248. Authority of superintendents. The superintendents of facilities established by the Department shall have the authority, commensurate with that of a parent in like cases, to give consent for those children placed in their respective facilities to (i) application for a motor vehicle operator's license and (ii) issuance of an employment certificate. Such authority shall be exercised in accordance with rules and regulations established by the Board.

Source: § 53-334.

Revisor's Note: No change.

§ 53.1-249. Community group homes and other residential facilities for certain children. The Department is authorized to establish and maintain such a system of community group homes or other residential care facilities as the Department may from time to time acquire, construct or rent for the care of children in direct state care, pending development of more permanent placement plans. Such placement plans shall consider adequate care and treatment, and suitable education, training and employment for such children, as is appropriate. The Department is further authorized to employ necessary personnel for such facilities. The Board shall adopt such rules and regulations for the operation of such facilities, not inconsistent with the general laws of this Commonwealth, as it may deem appropriate.

Source: § 53-331.

Revisor's Note: No substantive change.

§ 53.1-250. Collection of information concerning religious preferences by correctional facilities. Notwithstanding any provision of law to the contrary, any correctional facility established pursuant to this chapter or Chapter 11 of Title 16.1 may collect and disseminate information concerning the religious preferences and affiliations of persons committed to its custody. No person shall be required to indicate his religious preference or affiliation, and no dissemination of the information shall be made except to categories of persons designated by the person who has given his consent to such dissemination.

Source: § 53-19.15:1.

Revisor's Note: No substantive change.

Article 2.

Delinquency Prevention and Youth Development Act.

§ 53.1-251. Delinquency prevention and youth development programs. The Director shall develop and supervise delinquency prevention and youth development programs in order that better services and coordination of services are provided to children. The Director shall have the authority to appoint necessary agents for the carrying out of these programs as may be needed. To this end the Director shall cooperate with state and local authorities in establishing and maintaining suitable delinquency prevention and youth development programs.

Source: § 53-19.22:1.

Revisor's Note: No substantive change.

§ 53.1-252. Authority of Director to make grants. The Director is authorized to make grants to counties and cities pursuant to the provisions of this chapter to promote efficiency and economy in the delivery of youth services and to provide support to localities seeking to respond positively to the growing rate of juvenile delinquency.

Source: § 53-335.

Revisor's Note: No substantive change.

§ 53.1-253. Rules and regulations; standards. The Board shall prescribe rules and regulations governing applications for grants pursuant to this chapter and standards for the operation of programs developed and implemented under the grants. The Board shall cooperate with and seek the assistance of representatives of county and city governing bodies, private nonprofit youth service agencies and private citizens having expertise in the development of the standards required by this section.

Source: § 53-336.

Revisor's Note: No substantive change.

§ 53.1-254. Ordinances to be enacted by participating localities; applications by localities for grants. Prior to applying to the Director for a grant pursuant to this chapter, each governing body of a county or city which is to participate in the grant shall enact an appropriate ordinance or resolution which provides for the creation of a youth services citizen board pursuant to § 53.1-259 hereof, annual preparation of a comprehensive plan based on an objective assessment of the community's needs and resources for developing, coordinating and evaluating youth services and funding of the local share of the grant.

Any county or city or combination thereof may apply to the Director for a grant pursuant to this chapter. The Director shall provide consultation and technical assistance, if requested, to localities in the development of applications for such grants. The Director shall approve or disapprove applicants for grants in accordance with rules and regulations prescribed by the Board.

Source: § 53-337.

Revisor's Note: No change.

§ 53.1-255. Annual renewal of grants; failure to comply with standards. Grants approved by the Director pursuant to § 53.1-254 shall be annually renewed subject to approval by the Director of the comprehensive plan for youth services submitted by the participating counties or cities.

If the Director shall determine that a program operating under an approved grant is not in compliance with minimum standards promulgated by the Board, he may suspend all or any portion of the grant until the required standards of operation are met after thirty days' notice to each participating county and city and after a hearing is held on the matter.

Source: § 53-338.

Revisor's Note: No change.

§ 53.1-256. Funding; records to be kept by localities; use of funds. A. Grants made to a county or city or combination thereof pursuant to this chapter shall be of an amount up to seventy-five percent of the total program budget for the proposed program for salaries and all other operating expenses including the lease of facilities, subject to funds provided by the General Assembly and rules and regulations prescribed by the Board.

B. Each county and city receiving moneys under this chapter shall keep records of receipts and disbursements thereof which records shall be open for audit and evaluation by the appropriate State authorities.

C. Participating counties and cities may not use funds provided under this chapter to decrease those funds allocated by the governing body for existing citizen boards as provided for in § 53.1-259 hereof with the exception of those programs being funded by federal grant moneys.

Source: § 53-339.

Revisor's Note: No change.

§ 53.1-257. Withdrawal from program. Any participating county or city may, at the beginning of any calendar quarter, by ordinance or resolution of its governing authority, notify the Director of its intention to withdraw from the grant program. Such withdrawal shall be effective the last day of the quarter in which such notice is given.

Source: § 53-340.

Revisor's Note: No change.

§ 53.1-258. Unexpended funds. In any case in which any portion of state funds obtained through a grant authorized pursuant to this chapter remains unencumbered or unexpended at the end of the fiscal year, such funds shall be returned by the locality to the State Treasurer, who shall deposit such moneys in the state general fund.

Source: § 53-341.

Revisor's Note: No change.

§ 53.1-259. Youth services citizen boards; appointment and qualifications of members. Each county and city participating in a program funded by an approved grant shall be represented on a youth services citizen board. The board shall be appointed by the county or city governing body or combination thereof and shall include in its membership, in addition to representative elected officials, representatives of public and private agencies serving youths, citizens not employed by government or service agencies and at least one member who is below the age of eighteen years. A majority of the board shall be citizens who are not employed by government or service agencies and who are not elected governmental officials.

Source: § 53-342.

Revisor's Note: No change.

§ 53.1-260. Responsibilities of boards. It shall be the responsibility of the youth services citizen board to:

1. Assist community agencies and organizations in establishing and modifying programs and services to youth on the basis of an objective assessment of the community's needs and resources;

2. Evaluate and monitor community programs and services to determine their impact on youth;

3. Provide a mechanism whereby all youths and their families with needs for services will be linked to appropriate services; and

4. Attempt to resolve agency policies and procedures that make it difficult for youths and their families to receive services.

The board shall actively participate with community representatives in the formulation of a comprehensive plan for the development, coordination and evaluation of the youth services program and shall make formal recommendations to the governing authority or authorities at least annually concerning the comprehensive plan and its implementation during the ensuing year.

Source: § 53-343.

Revisor's Note: No change.

§ 58-441.6. Exclusions and exemptions. The terms "sale at retail," "lease or rental," "distribution," "use," "storage" and "consumption" shall not include industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; nor shall such terms include industrial materials that are coated upon or impregnated into the product at any stage of its processing, manufacture, refining, or conversion for resale; nor shall such terms include machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or conversion of products for sale or resale; nor shall such terms include materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale.

In addition to the exclusions or exemptions set out in the next preceding paragraph such terms shall not include the following:

(a) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, nor services rendered by repairmen for which a separate charge is made.

(b) Tangible personal property delivered pursuant to bona fide written contracts entered into before the date of the enactment of this chapter, provided delivery is made within ninety days after June twenty-seven, nineteen hundred sixty-six; and building supplies, fixtures or equipment that enter into or become a part of a building or other kind of structure in this State, where plans, specifications, and the construction contract for a specific project has been entered into prior to the date of the enactment of this chapter, provided delivery is made within the time specified in such contract for the completion of such specific project.

(c) Commercial feeds, seed, plants, fertilizers, liming materials, breeding and other livestock, semen, breeding fees, baby chicks, turkey poults, agricultural chemicals, fuel for drying or curing crops, baler twine, containers for fruits and vegetables, farm machinery, all other tangible personal property, except for structural construction materials, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor to be affixed to real property owned or leased by a farmer; and agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, including fish and worm farming for market. Taxes on the sale of any tangible personal property exempt under the provisions of this act collected between

July one, nineteen hundred seventy-nine and July one, nineteen hundred eighty from contractors who purchased and installed such property for a farmer shall be refunded to the farmer upon the making of an appropriate application for such refund. The Commissioner shall prescribe by rule and regulation the procedure for such refunds hereunder.

(d) Each and every agricultural commodity or kind of seafood sold or distributed by any person to any other person, who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. The term "agricultural commodity," for the purposes of this subparagraph, shall mean horticultural, poultry, and farm products, and livestock and livestock products.

(e) Motor vehicle fuels which are subject to the tax imposed by chapters 13 (§ 58-686 et seq.) and 14 (§ 58-731 et seq.) of Title 58 of the Code of Virginia, as amended except to the extent that they are taxable under § 58-441.5:1; provided, however, persons who are refunded the motor fuel tax or special fuel tax shall be subject to the tax imposed by this chapter, unless such taxes would be specifically exempted pursuant to any provision of this section.

(f) Motor vehicles, trailers and semitrailers, mobile homes and travel trailers.

(g) Gas, electricity, or water when delivered to consumers through mains, lines, or pipes.

(g1) Artificial or propane gas, firewood, coal or home heating oil used for domestic consumption. "Domestic consumption" means the use of artificial or propane gas, firewood, coal or home heating oil by an individual purchaser for other than business, commercial or industrial purposes. The Commissioner shall establish by rule and regulation a system for use by dealers in classifying individual purchases for domestic or nondomestic use based on the principal usage of such gas, wood, coal or oil. Any person making a nondomestic purchase and paying the tax pursuant to this chapter who uses any portion of such purchase for domestic use may, between the first day of the first month and the fifteenth day of the fourth month following the year of purchase, apply, on forms furnished by the Commissioner, for a refund of the tax paid on the domestic use portion.

(h) Tangible personal property sold or leased to a public service corporation subject to a State franchise or license tax upon gross receipts for use or consumption by such corporation directly in the rendition of its public service, and tangible personal property sold or leased to a public service corporation engaged in business as a common carrier of property or passengers by motor vehicle or railway, for use or consumption by such common carrier directly in the rendition of its public service.

(i) Ships or vessels used or to be used exclusively or principally in interstate or foreign commerce, or repairs and alterations thereof; or fuel and supplies for use or consumption aboard ships or vessels plying the high seas, either in intercoastal trade between ports in this State and ports in other states of the United States or its territories or possessions, or in foreign commerce between ports in this State and ports in foreign countries, when delivered directly to such ships or vessels; nor shall the tax imposed by this chapter apply to tangible personal property used directly in the building, conversion or repair of the ships or vessels covered by this subparagraph (i).

(j) Broadcasting equipment and parts and accessories thereto and towers used or to be used by commercial radio and television companies, cable television systems, or concerns which are under the regulation and supervision of the Federal Communications Commission and amplification, transmission and distribution equipment used or to be used by cable television systems.

(k) Any publication issued daily, or regularly at average intervals not exceeding three months, except that newsstand sales of the same are taxable.

(l) School lunches sold and served to pupils and employees of schools and subsidized by government, and school textbooks sold by a local school board or authorized agency thereof, and school textbooks sold for use by students attending a college or other institution of learning, not conducted for profit, when sold (i) by such institution of learning, or (ii) by any other dealer, when such textbooks have been certified by a department or instructor of such institution of learning as required textbooks for students attending courses at such institution.

(m) An "occasional sale," which means a sale of tangible personal property not held or used by a seller in the course of an activity for which he is required to hold a certificate of registration, including the sale or exchange of all or substantially all the assets of any business and the reorganization or liquidation of any business, provided such sale or exchange is not one of a series of sales and exchanges sufficient in number, scope, and character to constitute an activity requiring the holding of a certificate of registration.

(n) Tangible personal property for future use by a person for taxable lease or rental as an established business or part of an established business, or incidental or germane to such business, including a simultaneous purchase and taxable leaseback.

(o) Alcoholic beverages sold by the Virginia Alcoholic Beverage Control Commission through its government stores.

(p) Tangible personal property for use or consumption by this State, any political subdivision of this State, or the United States; but this exclusion shall not apply to sales and leases to privately owned financial and other privately owned corporations chartered by the United States.

(q) Tangible personal property purchased for use or consumption directly and exclusively in basic research or research and development in the experimental or laboratory sense.

(r) Delivery of tangible personal property outside this State for use or consumption outside this State. Delivery of goods destined for foreign export to a factor or export agent shall be deemed to be delivery of goods for use or consumption outside this State.

(s) Medicines, drugs, hypodermic syringes, artificial eyes, contact lenses, eyeglasses and hearing aids dispensed by or sold on prescriptions or work orders of licensed physicians, dentists, optometrists, ophthalmologists, opticians, audiologists, hearing aid dealers and fitters, and controlled drugs purchased by a licensed physician for use in his professional practice.

(s1) Wheelchairs and parts therefor, braces, crutches, prosthetic devices, orthopedic appliances, catheters, urinary accessories, insulin and insulin syringes, when purchased by or on behalf of an individual for use by such individual.

(t) Tangible personal property for use or consumption by a college or other institution of learning, a hospital, a licensed nursing home or a licensed nonprofit nonstock home for adults as defined by § 63.1-172 A, and tangible personal property (i) for use or consumption by, (ii) sold by, or (iii) donated to a noncommercial educational telecommunications entity, said exemption to apply to each transaction in the chain of commerce from manufacture to final disposition, provided such college, institution of learning, telecommunications entity, hospital, licensed nursing home or home for adults is not conducted for profit.

For purposes of this subsection, "other institution of learning" shall include an educational institution doing business in the Commonwealth which (1) admits regularly enrolled high school and college students, and (2) provides a face-to-face educational experience in American government, a program which (a) leads towards the successful completion of United States history, civics, and problems of democracy courses in high school, or (b) which is acceptable for full credit towards an undergraduate or graduate level college degree.

(u) Tangible personal property sold or leased to an airline operating in intrastate, interstate or foreign commerce as a common carrier providing scheduled air service on a continuing basis to one or more Virginia airports for use or consumption by such airline directly in the rendition of its common carrier service. As used in this paragraph "scheduled air service" shall be defined pursuant to the provisions of § 58-685.31.

(v) Tangible personal property purchased for use or consumption by a volunteer fire department or volunteer rescue squad not conducted for profit, and construction materials to be incorporated into realty when sold to and used by such organization, rather than a contractor, in construction, maintenance, or repair of any property of such organization.

(w) Machinery or tools or repair parts therefor or replacement thereof, fuel or supplies, provided the same are sold to and purchased by watermen for use by them in extracting fish,

bivalves or crustaceans from waters for commercial purposes.

(x) Aircraft subject to tax under chapter 12.2 (§ 58-685.27 et seq.) of Title 58.

(y) Catalogs and other printed materials used in the advertising of tangible personal property for sale, the envelopes, containers and labels used for packaging and mailing same, and paper furnished to a printer for fabrication into catalogs and other printed materials used in advertising tangible personal property for sale, when stored for twelve months or less in this State and distributed for use without this State.

(z) Motor fuels and special fuels for use in a boat or boats or a ship or ships, upon which a motor fuel tax is refunded pursuant to § 58-730.3, and upon which a special fuel tax is refunded pursuant to § 58-753.1.

(aa) Meals furnished by restaurants or food service operators to employees as a part of wages.

(bb) Special equipment installed on a motor vehicle when purchased by a handicapped person to enable such person to operate such motor vehicle.

(cc) Sales of a government agency of the official flags of the United States, the Commonwealth of Virginia or of any county, city or town.

(dd) Materials furnished by the State Board of Elections pursuant to paragraphs (8), (9) or (10) of § 24.1-23.

(ee) Books and other reading materials for use by nonprofit organizations organized solely to distribute such books and reading materials to school-age children.

(ff) Machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy or supplies, and cereal grains and other feed ingredients, including, but not limited to, drugs, vitamins, minerals, nonprotein nitrogen, and other supplements or additives, used directly in making feed for sale or resale. Making of feed shall include the mixing of liquid ingredients.

(gg) Tangible personal property, except property used in any form of recording and reproducing services, purchased by churches organized not for profit and (i) which are exempt from taxation under § 501 (C) (3) of the Internal Revenue Code or (ii) whose real property is exempt from local taxation pursuant to the provisions of § 58-12, for use in religious worship services by a congregation or church membership while meeting together in a single location and religious educational materials purchased by churches for use in their regular school of religious education.

(hh) Tangible personal property including machinery, tools, repair parts, or replacements thereof, and supplies and materials used directly in maintaining and preparing textile products for rental or leasing by an industrial processor engaged in the commercial leasing or renting of laundered textile products.

(ii) Historical documents, maps, rare books and manuscripts acquired by a nonprofit State historical society which maintains a research library open to the public for research and educational purposes without charge.

(jj) [Repealed.]

(kk) Watercraft as defined in § 58-685.40 of this Code.

(ll) Sales by prisoners confined in state correctional facilities of artistic products personally made by the prisoners as authorized by § 53-63.1 of the Code.

2. That whenever any of the conditions, requirements, provisions or contents of any section, article or chapter of Title 53 or any other title of this Code as such titles existed prior to July 1, 1982, are transferred in the same or modified form to a new section, article or chapter of this title or any other title of this Code and whenever any such former section, article or chapter is given a new number in this or any other title, all references to any such former section, article or chapter of Title 53 or other title appearing in this Code shall be construed to apply to the new or renumbered

section, article or chapter containing such conditions, requirements, provisions, contents or portions thereof.

3. That the rules and regulations of the State Board of Corrections and the Virginia Parole Board in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations promulgated under this act.

4. That this recodification of Title 53 as Title 53.1 shall not be construed to require the reappointment of any officer or any member of a board, council, committee or other appointed body referred to in Title 53.1, and each such officer and member shall continue to serve the term for which appointed pursuant to the provisions of Title 53.

5. That if any clause, sentence, paragraph, subdivision, section or part of this title shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which the judgment shall have been rendered.

6. That § 19.2-310.1 and Title 53 of the Code of Virginia, containing chapters numbered 1.1 through 19 and sections numbered 53-19.5 through 53-343, are repealed.

7. That this act shall be deemed to have been enacted prior to any other act enacted in the 1982 regular session of the General Assembly, and any act purporting to amend and reenact any law contained in Title 53 or Title 53.1 of the Code of Virginia is deemed to be added to, amendatory of, or a repealer of, as the case may be, any corresponding law contained in this act; provided, that effect shall be given to such other or subsequent act only to the extent of any apparent changes in the law as it existed prior to the commencement of such session.

