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HOUSE BILL NO. 1121

Offered January 10, 2024

Prefiled January 10, 2024

A *BILL to amend and reenact §§ 23.1-3137, 53.1-10, and 53.1-41 of the Code of Virginia, relating to the Department of Corrections; online educational courses.*

Patrons—Carr and Bennett-Parker

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 23.1-3137, 53.1-10, and 53.1-41 of the Code of Virginia are amended and reenacted as follows:

§ 23.1-3137. Duties of the Authority.

The Authority shall:

1. Expand access to affordable higher education in the Commonwealth by establishing the Online Virginia Network (the Network) for the purpose of coordinating the online delivery of courses that facilitate the completion of degrees at George Mason University, Old Dominion University, James Madison University, and comprehensive community colleges;

2. Encourage each public institution of higher education and each consortium of public institutions of higher education that offers online courses, online degree programs, or online credential programs to offer any such course, degree program, or credential program through the Network;

3. Oversee a process of approval for public institutions of higher education and consortia of such institutions to participate in the Network, with such funds as are appropriated for such purpose and made available to it;

4. Serve as a resource for residents of the Commonwealth and disseminate information regarding the opportunities for online learning offered by institutions and consortia that participate in the Network;

5. Coordinate the maintenance of an online portal through which potential students may examine and enroll seamlessly in Network offerings;

6. Collaborate with institutions and consortia that participate in the Network to ensure that the needs of enrolled students are met before, during, and after enrollment through online student support systems;

7. To the extent practicable, ensure that courses and degree programs offered through the Network (i) are accredited by an accrediting agency recognized by the U.S. Department of Education or authorized by the Council, as applicable; (ii) expand access to underserved populations based on income, race, geography, and age; (iii) are responsive to the employment demands of the Commonwealth; (iv) employ learning and delivery technologies, which may include competency-based and experiential learning, in an efficient and cost-effective manner to promote flexibility for each student to pursue online courses and programs at his own pace and in his own location throughout the year; (v) minimize student expenses and reduce time-to-degree or time-to-credential; and (vi) are offered in collaboration with existing public and private providers of online courses;

8. Promote the refinement and implementation of articulation agreements to ensure that credits earned through the Network are transferable to each other public institution of higher education and contribute to on-time degree completion at each such institution;

9. Assist in developing processes to help institutions and consortia that participate in the Network to expand their online offerings;

10. Ensure that the Passport Program and the Uniform Certificate of General Studies Program, established pursuant to § 23.1-907, be made available through the Network;

11. Develop specific goals for meeting the demand in the Commonwealth for affordable and accessible higher education through online learning;

12. Review and report annually to the Governor and the General Assembly on the cost structure of funds allocated to the establishment, maintenance, and expansion of the Network. In addition, the Authority shall examine ways to reduce the cost of online education and develop a budget that incorporates estimated expected tuition revenue from online students and its use in supporting the Network and assumes that any financial aid will come from existing financial aid programs; ~~and~~

13. Accept, administer, and account for any state, federal, or private moneys that it may receive. Any moneys, including interest thereon, that have not been expended by the Authority by the end of each fiscal year shall not revert to the general fund but shall remain in the accounts of the Authority; *and*

14. *Serve as a resource for prisoners in state correctional facilities for the purposes of providing a means for prisoners to earn degrees and postsecondary education credentials through accessing online degree and*

59 *credential programs that are offered by George Mason University, Old Dominion University, James Madison*
60 *University, and comprehensive community colleges.*

61 **§ 53.1-10. Powers and duties of Director.**

62 The Director shall be the chief executive officer of the Department and shall have the following duties and
63 powers:

64 1. To supervise and manage the Department and its system of state correctional facilities;

65 2. To implement the standards and goals of the Board as formulated for local and community correctional
66 programs and facilities and lock-ups;

67 3. To employ such personnel and develop and implement such programs as may be necessary to carry out
68 the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of
69 appropriations made therefor by the General Assembly;

70 4. To establish and maintain a general system of schools for persons committed to the institutions and
71 community-based programs for adults as set forth in § 53.1-67.9. Such system shall include, as applicable,
72 elementary, secondary, postsecondary, career and technical education, adult, and special education schools.

73 a. The Director shall employ a Superintendent who will oversee the operation of educational and
74 vocational programs in all institutions and community-based programs for adults as set forth in § 53.1-67.9
75 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall
76 not be eligible to receive state funds appropriated for direct aid to public education.

77 b. When the Department employs a teacher licensed by the Board of Education to provide instruction in
78 the schools of the correctional centers, the Department of Human Resource Management shall establish
79 salary schedules for the teachers which endeavor to be competitive with those in effect for the school division
80 in which the correctional center is located.

81 c. The Superintendent shall develop a functional literacy program for inmates testing below a selected
82 grade level, which shall be at least at the twelfth grade level. The program shall include guidelines for
83 implementation and test administration, participation requirements, criteria for satisfactory completion, and a
84 strategic plan for encouraging enrollment at an institution of higher education or an accredited vocational
85 training program or other accredited continuing education program.

86 d. For the purposes of this section, the term "functional literacy" shall mean those educational skills
87 necessary to function independently in society, including, but not limited to, reading, writing, comprehension,
88 and arithmetic computation.

89 e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the Superintendent
90 shall create a system for identifying prisoners with learning disabilities.

91 5. a. To make and enter into all contracts and agreements necessary or incidental to the performance of the
92 Department's duties and the execution of its powers under this title, including, but not limited to, contracts
93 with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and
94 contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of
95 water or wastewater treatment services or both as necessary for the expansion or construction of correctional
96 facilities;

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

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

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

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

120 provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative
121 documents and reports;

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

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

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

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

143 12. To prescribe and enforce rules prohibiting the possession of obscene materials, as defined in Article 5
144 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities;

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

148 14. To promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to
149 effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in
150 § 32.1-162.16, to be conducted or authorized by the Department. The regulations shall require the human
151 research committee to submit to the Governor, the General Assembly, and the Director or his designee at
152 least annually a report on the human research projects reviewed and approved by the committee and shall
153 require the committee to report any significant deviations from the proposals as approved; ~~and~~

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

162 16. *To establish, develop, and implement an educational program with the Online Virginia Network*
163 *Authority for the purposes of providing a means for prisoners to earn degrees and postsecondary education*
164 *credentials through accessing online degree and credential programs that are offered by George Mason*
165 *University, Old Dominion University, James Madison University, and comprehensive community colleges.*

166 **§ 53.1-41. Opportunities for work and career and technical education.**

167 A. To the extent feasible, it shall be the duty of the Director to provide persons sentenced to the
168 Department with opportunities to work and to participate in career and technical education programs,
169 *including any online degree and credential programs offered through the Online Virginia Network Authority.*
170 Such work opportunities may include business, industrial, agricultural, highway maintenance and
171 construction, and work release programs as hereafter specified in this article. In addition, prisoners may be
172 employed to improve, repair, work on or cultivate public property or buildings.

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

176 B. When a person committed to the Department owes any court imposed fines, costs, forfeitures,
177 restitution or penalties, he shall be required as a condition of participating in any work program to either
178 make full payment or make payments in accordance with an agreed upon installment or deferred payment
179 plan while participating in such work program. If, after the person enters into an installment or deferred
180 payment agreement, the person fails to pay as agreed, his participation in the work program may be

181 terminated until all fines, costs, forfeitures, restitution and penalties are satisfied. The Director shall withhold
182 such payments from any amounts due to such person.