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SENATE BILL NO. 770

Offered January 8, 2025

Prefiled December 19, 2024

A BILL to amend and reenact §§ 53.1-5 and 53.1-69.1 of the Code of Virginia, relating to State Board of Local and Regional Jails; deaths of inmates in local, regional, and community correctional facilities; reports.

Patrons—Favola and McDougle

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-5 and 53.1-69.1 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-5. Powers and duties of Board.

The Board shall have the following powers and duties:

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

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

3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community correctional facilities. The Board, when promulgating regulations and adopting any policy or guidance document related to the enforcement of any minimum standards applicable to local, regional, and community correctional facilities, shall expressly and specifically include such items in its published agenda for meetings of the Board or any of its subcommittees. No standard, policy, or guidance document may be promulgated, amended, or rescinded in entirety or in part without compliance with this article;

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

5. To develop and implement policies and procedures for the review of the death of any inmate that the Board determines warrants review that occurs in any local, regional, or community correctional facility. Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of evidence necessary to conduct a thorough review of any such death. Notwithstanding any other provision of law, the Board shall adhere to procedures of the Administrative Process Act (§ 2.2-4000 et seq.) in promulgating such policies and procedures;

6. To establish minimum standards for health care services, including medical, dental, pharmaceutical, and behavioral health services, in local, regional, and community correctional facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral Health and Developmental Services and State Health Commissioner or their designees. Notwithstanding any other provision of law, the Board shall adhere to procedures of the Administrative Process Act (§ 2.2-4000 et seq.) in promulgating such policies and procedures. Such minimum standards shall require that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report documenting the delivery of health care services, along with any improvements made to those services, to the Board. The Board shall make such reports available to the public on its website. The Board may determine that any local, regional, or community correctional facility that is accredited by the American Correctional Association or National Commission on Correctional Health Care meets such minimum standards solely on the basis of such facility's accreditation status; however, without exception, the requirement that each local, regional, and community correctional facility submit a standardized quarterly continuous quality improvement report to the Board shall be a mandatory minimum standard; and

7. To report annually on or before December 1 to the General Assembly and the Governor on the results of the inspections and audits of local, regional, or community correctional facilities conducted pursuant to § 53.1-68 and the reviews of the deaths of inmates that occur in any local, regional, or community correctional facility conducted pursuant to § 53.1-69.1. The report shall include (i) a summary of the results of such inspections; and audits; and reviews, including any trends identified by such inspections; and audits; and reviews and the frequency of violations of each standard established for local, regional, or community correctional facilities, and (ii) any recommendations for changes to the standards established for local, regional, or community correctional facilities or the policies and procedures for conducting reviews of the death of inmates to improve the operations, safety, and security of local, regional, or community correctional facilities.

§ 53.1-69.1. Review of death of inmates in local, regional, or community correctional facilities.

A. The Board shall have the power to review the death of any inmate who was incarcerated in a local,

59 *regional, or community* correctional facility at the time of his death in order to determine (i) the
60 circumstances surrounding the inmate's death, including identifying any act or omission by the facility or any
61 employee or agent thereof that may have directly or indirectly contributed to the inmate's death, and (ii)
62 whether the facility was in compliance with the regulations promulgated by the Board.

63 B. Any review conducted pursuant to this section shall be conducted in accordance with the policies and
64 procedures for such review developed and implemented by the Board in accordance with subdivision 5 of §
65 53.1-5. In conducting a review pursuant to this section, the Board may exercise its power under § 53.1-6 to
66 hold and conduct hearings, issue subpoenas, and administer oaths and take testimony thereunder. If the Board
67 determines that it cannot adequately conduct any particular review pursuant to this section because of the
68 conduct by the Board of another ongoing review, the Board may request that the Department assist in the
69 conduct of such review. Department staff conducting a review pursuant to this section shall be considered
70 agents of the Board.

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

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

87 E. The Board shall publish an annual report summarizing the reviews conducted by the Board within that
88 year. Such report shall include any trends or similarities among the deaths of inmates in local correctional
89 facilities and present recommendations on policy changes to reduce the number of deaths in local correctional
90 facilities. The that includes the following: (i) a summary of the reviews of the deaths of inmates that occur in
91 any local, regional, or community correctional facility conducted in the prior year pursuant to this section,
92 including any trends or similarities identified by such reviews; (ii) any recommendations for policy changes
93 to reduce the number of inmate deaths; and (iii) any recommendations for changes to the policies and
94 procedures for conducting reviews of the deaths of inmates to improve the operations, safety, and security of
95 local, regional, or community correctional facilities. On or before July 1, 2025, and each July 1 thereafter,
96 the Board shall publish such report on its website and submit the report to the Governor, the Chairmen of the
97 Senate Committee on Rehabilitation and Social Services and, the House Committee on Public Safety, the
98 Chair of and the House Committee for Courts of Justice, the Speaker of the House of Delegates, and the
99 President pro tempore of the Senate.