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HOUSE BILL NO. 2467

Offered January 13, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 53.1-1, 53.1-2, 53.1-4, 53.1-5, 53.1-6, 53.1-6.1, 53.1-68, and 53.1-127 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 53.1-6.2 through 53.1-6.5, relating to the State Board of Local and Regional Jails; oversight of local and regional jails; powers and duties.

Patrons—Henson, Cherry, Gardner, Clark, Cole, Convirs-Fowler, Cousins, Feggans, Hope, Martinez, Mundon King and Seibold

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-1, 53.1-2, 53.1-4, 53.1-5, 53.1-6, 53.1-6.1, 53.1-68, and 53.1-127 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 53.1-6.2 through 53.1-6.5 as follows:

§ 53.1-1. Definitions.

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

"Board" or "State Board" means the State Board of Local and Regional Jails.

"Community correctional facility" means any group home, halfway house or other physically unrestricting facility used for the housing, treatment or care of adult offenders established or operated with funds appropriated to the Department of Corrections from the state treasury and maintained or operated by any political subdivision, combination of political subdivisions or privately operated agency within the Commonwealth.

"Community supervision" means probation, parole, postrelease supervision, programs authorized under the Comprehensive Community Corrections Act for local responsible offenders, and programs authorized under Article 7 (§ 53.1-128 et seq.) of Chapter 3.

"Correctional officer" means a duly sworn employee of the Department of Corrections whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any state correctional facility.

"Department" means the Department of Corrections.

"Deputy sheriff" means a duly sworn officer appointed by a sheriff pursuant to § 15.2-1603 whose normal duties include, but are not limited to, maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility and may include those duties of a jail officer.

"Director" means the Director of the Department of Corrections.

"Jail officer" means a duly sworn employee of a local correctional facility, except for deputy sheriffs, whose normal duties relate to maintaining immediate control, supervision and custody of prisoners confined in any local correctional facility. This definition in no way limits any authority otherwise granted to a duly sworn deputy sheriff whose duties may include those of a jail officer.

"Local correctional facility" means any jail, jail farm or other place used for the detention or incarceration of adult offenders, excluding a lock-up, which is owned, maintained, or operated by any political subdivision or combination of political subdivisions of the Commonwealth. For the purposes of subsection B E of § 53.1-68 and §§ 53.1-69, 53.1-69.1, and 53.1-127, "local correctional facility" also includes any facility owned, maintained, or operated by any political subdivision or combination of political subdivisions of the Commonwealth that is used for the detention or incarceration of people pursuant to a contract or third-party contract with the federal government or any agency or contractor thereof.

"Lock-up" means a facility whose primary use is to detain persons for a short period of time as determined by the Board.

"State correctional facility" means any correctional center or correctional field unit used for the incarceration of adult offenders established and operated by the Department of Corrections, or operated under contract pursuant to § 53.1-262. This term shall include "penitentiary" whenever used in this title or other titles of the Code.

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

There shall be a State Board of Local and Regional Jails, which shall consist of ~~11~~ 19 residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments, the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. Members of the Board shall be appointed as follows: (i) two members of the

58 *Senate who are not members of the same political party, to be appointed by the Senate Committee on Rules;*
 59 *(ii) two members of the House of Delegates who are not members of the same political party, to be appointed*
 60 *by the Speaker of the House of Delegates; and (iii) the following nonlegislative citizen members to be*
 61 *appointed by the Governor and subject to confirmation by the General Assembly: (a) one former sheriff; ~~(ii)~~*
 62 *(b) one former superintendent of a regional jail facility; ~~(iii)~~ (c) two individuals employed by a public mental*
 63 *health services agency with training in or clinical, managerial, or other relevant experience working with*
 64 *individuals subject to the criminal justice system who have mental illness; ~~(iv)~~ (d) one individual with*
 65 *experience overseeing a correctional facility's or mental health facility's compliance with applicable laws,*
 66 *rules, and regulations; ~~(v)~~ (e) one physician licensed in the Commonwealth; ~~(vi)~~ (f) one individual with*
 67 *experience in administering educational or vocational programs in state or local correctional facilities; ~~(vii)~~*
 68 *(g) one individual with experience in financial management or performing audit investigations; ~~(viii)~~ (h) one*
 69 *citizen member who represents community interests; and ~~(ix)~~ (i) two individuals with experience in*
 70 *conducting criminal, civil, or death investigations; (j) one representative of a nonprofit organization that*
 71 *provides training or rehabilitation programs for incarcerated inmates; (k) one male citizen and one female*
 72 *citizen who were formerly incarcerated within the Commonwealth for a term of imprisonment of three years*
 73 *or more within the 10 years immediately preceding their appointments, provided that such citizens have had*
 74 *their civil rights restored by the Governor; and (l) one person who is a grandparent, parent, child, sibling, or*
 75 *spouse or domestic partner of a person currently incarcerated within the Commonwealth who is serving a*
 76 *term of incarceration of three years or more. In making the nonlegislative appointments, the Governor shall*
 77 *endeavor to select appointees of such qualifications and experience that the membership of the Board shall*
 78 *include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction*
 79 .

80 Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms of four
 81 years and nonlegislative members shall serve at the pleasure of the Governor. A vacancy other than by
 82 expiration of a term shall be filled by the Governor for the unexpired term.

83 No person shall be eligible to serve more than two full consecutive four-year terms.

84 **§ 53.1-4. Meetings; quorum; officers; main office.**

85 The Board shall meet at least six times each calendar year and at other times as it deems appropriate. Five
 86 Nine members of the Board shall constitute a quorum. The Board shall select a chairman and secretary from
 87 its membership. The main office of the Board shall be in Richmond. *The Board shall also hold at least two*
 88 *public hearings each year to present, review, and discuss the Board's inspections, findings, reports, and*
 89 *recommendations set forth in the Board's annual report.*

90 **§ 53.1-5. Powers and duties of Board.**

91 The Board shall have the following powers and duties:

- 92 1. To develop and establish operational and fiscal standards governing the operation of local, regional, and
 93 community correctional facilities;
- 94 2. To advise the Governor and Director on matters relating to corrections;
- 95 3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the
 96 provisions of this title and other laws of the Commonwealth pertaining to local, regional, and community
 97 correctional facilities. The Board, when promulgating regulations and adopting any policy or guidance
 98 document related to the enforcement of any minimum standards applicable to local, regional, and community
 99 correctional facilities, shall expressly and specifically include such items in its published agenda for meetings
 100 of the Board or any of its subcommittees. No standard, policy, or guidance document may be promulgated,
 101 amended, or rescinded in entirety or in part without compliance with this article;
- 102 4. To ensure the development of programs to educate citizens and elicit public support for the activities of
 103 the ~~Department~~ Board;
- 104 5. To develop and implement policies and procedures for the review of the death of any inmate that the
 105 Board determines warrants review that occurs in any local, regional, or community correctional facility. Such
 106 policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the production of
 107 evidence necessary to conduct a thorough review of any such death. Notwithstanding any other provision of
 108 law, the Board shall adhere to procedures of the Administrative Process Act (§ 2.2-4000 et seq.) in
 109 promulgating such policies and procedures;
- 110 6. To establish minimum standards for health care services, including medical, dental, pharmaceutical,
 111 and behavioral health services, in local, regional, and community correctional facilities and procedures for
 112 enforcing such minimum standards, with the advice of and guidance from the Commissioner of Behavioral
 113 Health and Developmental Services and State Health Commissioner or their designees. Notwithstanding any
 114 other provision of law, the Board shall adhere to procedures of the Administrative Process Act (§ 2.2-4000 et
 115 seq.) in promulgating such policies and procedures. Such minimum standards shall require that each local,
 116 regional, and community correctional facility submit a standardized quarterly continuous quality
 117 improvement report documenting the delivery of health care services, along with any improvements made to
 118 those services, to the Board. The Board shall make such reports available to the public on its website. The

119 Board may determine that any local, regional, or community correctional facility that is accredited by the
 120 American Correctional Association or National Commission on Correctional Health Care meets such
 121 minimum standards solely on the basis of such facility's accreditation status; however, without exception, the
 122 requirement that each local, regional, and community correctional facility submit a standardized quarterly
 123 continuous quality improvement report to the Board shall be a mandatory minimum standard; ~~and~~

124 7. To provide information, as appropriate, to inmates, family members, representatives of inmates, and
 125 local, regional, and community correctional facility employees and contractors and others regarding the
 126 rights of inmates;

127 8. To monitor conditions of confinement in local, regional, and community correctional facilities and
 128 assess compliance with applicable federal, state, and local rules, regulations, policies, and best practices as
 129 related to the health, safety, welfare, and rehabilitation of inmates;

130 9. To provide technical assistance to support inmate participation in self-advocacy;

131 10. To provide technical assistance to local governments in the creation of correctional facility oversight
 132 bodies, as requested, to the extent resources are available to provide such assistance;

133 11. To establish policies for a statewide uniform reporting system to collect and analyze data related to
 134 complaints received in or about local, regional, and community correctional facilities and that may include
 135 data related to (i) deaths, suicides, and suicide attempts in custody; (ii) physical and sexual assaults in
 136 custody; (iii) the number of inmates placed in restorative housing, solitary confinement, suicide watch, or
 137 conditions more restrictive than the general population; (iv) the number of facility lockdowns lasting longer
 138 than 24 hours; (v) the number of staff vacancies at each facility; (vi) the inmate-to-staff ratios at each
 139 facility; (vii) staff tenure, turnover, and compensation; (viii) the number of in-person visits to inmates that
 140 were made and denied at each facility; (ix) the number of inmate complaints or grievances submitted to each
 141 facility, the resolution of such complaints or grievances, and how long it took to resolve each complaint or
 142 grievance; and (x) any covered issue as specified in § 53.1-6.4;

143 12. To establish procedures to gather stakeholder input into the Board's activities and priorities;

144 13. To inspect each local correctional facility as required pursuant to § 53.1-68;

145 14. To monitor, document, review, and report on facility conditions in local, regional, and community
 146 facilities;

147 15. To monitor, document, review, and report on the operation of stores and commissaries in local
 148 correctional facilities and systems for providing electronic visitation and messaging and telephone calls,
 149 including monitoring, documenting, reviewing, and reporting on the fees charged for items sold in such
 150 stores and commissaries and for such services and any contracts that local correctional facilities have
 151 entered into with private companies for the provision of such items and services;

152 16. To review, monitor, and report on the administrative remedy process of local, regional, and
 153 community correctional facilities, including the availability of any complaint and grievance forms at such
 154 facilities, the accessibility of the remedy process to inmates and their representatives at each facility, and the
 155 timely, unbiased resolution of complaints or grievances by the facilities;

156 17. To review, monitor, and report and make recommendations on policies related to (i) attorney access
 157 to clients for calls and visitation; (ii) access to voting for incarcerated individuals who are eligible to vote;
 158 and (iii) the collection of data on suicides, suicide attempts, and self-harm in custody; and

159 18. To report annually on or before December 1 to the General Assembly and the Governor on the (i)
 160 results of the inspections and audits of local, regional, or community correctional facilities conducted
 161 pursuant to § 53.1-68 ~~and the~~; (ii) reviews of the deaths of inmates that occur in any local, regional, or
 162 community correctional facility conducted pursuant to § 53.1-69.1; and (iii) results of the investigations of
 163 any complaints conducted pursuant to § 53.1-6.3. The report shall include ~~(i)~~ (a) a summary of the results of
 164 such inspections, audits, ~~and~~ reviews, and investigations, including any trends identified by such inspections,
 165 audits, ~~and~~ reviews, and investigations and the frequency of violations of each standard established for local,
 166 regional, or community correctional facilities; (b) a characterization of the conditions of confinement at each
 167 facility; (c) a summary of the review of the operation of stores and commissaries in local correctional
 168 facilities and systems for providing electronic visitation and messaging and telephone calls, including a
 169 review of fees charged for items sold in such stores and commissaries and for such services and any
 170 contracts that local correctional facilities have entered into with private companies for the provision of such
 171 items and services; (d) a summary of (1) available educational and rehabilitative programming, drug and
 172 mental health treatment, and inmate jobs and vocational training at each facility; (2) visitation policies and
 173 procedures at each facility; (3) medical facilities and medical policies and procedures at each facility; (4) the
 174 lockdowns reviewed by the Board; (5) staffing at each facility; and (6) physical or sexual assaults reviewed
 175 by the Board; (e) a summary of the review of and any recommendations on policies related to (1) attorney
 176 access to clients for calls and visitation; (2) access to voting for incarcerated individuals who are eligible to
 177 vote; and (3) the collection of data on suicides, suicide attempts, and self-harm in custody; and ~~(ii)~~ (f) any
 178 recommendations for changes to the laws or standards established for local, regional, or community
 179 correctional facilities or the policies and procedures for conducting reviews of the death of inmates to

180 improve the operations, safety, and security of local, regional, or community correctional facilities. *Such*
181 *report shall be made available to the public online.*

182 **§ 53.1-6. Board access to facilities and records; authorization to administer oaths, conduct hearings,**
183 **and issue subpoenas.**

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

188 B. When a review is ordered by the Board concerning any correctional facility subject to the Board's
189 jurisdiction or concerning the conduct of persons connected therewith, the chairman of the Board, by order of
190 the Board, may issue a summons directed to the sheriff of the county or city in which such institution is
191 located commanding him to summon any person to be present on a certain day at such place within such
192 county or city as may be designated by the Board to give evidence before the Board. The Board shall have
193 like powers to issue a summons directed to the sheriff and to direct the sheriff to enforce such summons.
194 *Local, regional, or community correctional facility employees may have counsel or a representative from*
195 *their employee organization present during testimony.*

196 C. The chairman of the Board shall make the entry required of the clerk by § 17.1-612 concerning the
197 amount any witness is to be paid as if the attendance of the witness was before a court. The sum to which the
198 witness is entitled shall be paid out of the funds appropriated to the Board.

199 D. *The Board, including the executive director and his staff, shall have reasonable access, upon request in*
200 *person or in writing and with or without prior notice, to all local, regional, and community correctional*
201 *facilities, including all areas that are used by inmates, all areas that are accessible to inmates, and programs*
202 *for inmates, at reasonable times, which at a minimum shall include normal working and visiting hours. This*
203 *access includes the opportunity to conduct an interview with any inmate or local, regional, or community*
204 *correctional facility employee or contractor or other person. This access may be used to (i) provide*
205 *information about individual rights and the services available from the Board, including the name, address,*
206 *and telephone number of the Board facilities or staff; (ii) conduct official inspections pursuant to § 53.1-68;*
207 *(iii) conduct an official investigation as provided in § 53.1-6.3; and (iv) inspect, view, photograph, and*
208 *record by video all areas of the facility that are used by inmates or are accessible to inmates. However,*
209 *Board members may not visit incarcerated family members outside of local, regional, or community*
210 *correctional facility visitation policies and procedures. The Board shall preserve the confidentiality of any*
211 *information obtained from a local, regional, or community correctional facility in accordance with*
212 *applicable state and federal laws.*

213 E. *Access to inmates includes the opportunity to meet and communicate privately and confidentially with*
214 *individuals regularly, with or without prior notice, both formally and informally, by telephone, mail, and*
215 *electronic communication and in person. In the case of communications with inmates, these communications*
216 *shall not be monitored by, recorded by, or conducted in the presence of employees or contractors of the local,*
217 *regional, or community correctional facility. Meetings with inmates may be recorded by members of the*
218 *Board at their discretion and with the inmate's consent. Any such recordings are subject to the provisions of*
219 *§ 53.1-6.2.*

220 F. *The Board shall provide a statewide toll-free telephone number, website, and mailing address for the*
221 *receipt of complaints and inquiries.*

222 G. *The Board shall have the right to access, inspect, and copy all relevant information, records, or*
223 *documents in the possession or control of the local, regional, or community correctional facility, with the*
224 *exception of confidential employee files, that the Board considers necessary in an investigation of a*
225 *complaint filed under this article, and the local, regional, or community correctional facility shall assist the*
226 *Board in obtaining the necessary releases for those documents that are specifically restricted or privileged*
227 *for use by the Board. The Board shall preserve the confidentiality of any information obtained from the local,*
228 *regional, or community correctional facility in accordance with applicable state and federal laws.*

229 H. *Access to local, regional, or community correctional facility employees or contractors includes the*
230 *opportunity to meet and communicate privately and confidentially with individuals during inspections or*
231 *normal working hours, with or without prior notice, both formally and informally, by telephone, mail, and*
232 *electronic communication and in person. Meetings with local, regional, or community correctional facility*
233 *employees or contractors may be recorded by members of the Board at their discretion and with the*
234 *individual's consent.*

235 I. *Following notification from the Board of a written request for access to local, regional, or community*
236 *correctional facility records, the designated local, regional, or community correctional facility staff shall*
237 *provide the Board with access to the requested documentation not later than 20 days after receipt of the*
238 *written request. If the records requested pertain to (i) an inmate death; (ii) threats of bodily harm, including*
239 *sexual or physical assaults; or (iii) the denial of necessary medical treatment, the records shall be provided*
240 *within five days unless the Board consents to an extension.*

241 J. *The Board shall work with the local, regional, or community correctional facilities to minimize*

242 *disruption to operations of such facilities due to an investigation by the Board. The Board shall comply with*
 243 *security processes of such facilities, provided these processes do not impede the investigation or resulting*
 244 *activities of the Board.*

245 **§ 53.1-6.1. Executive director; staff; compensation.**

246 The Board may appoint and employ an executive director and such other persons as it deems necessary to
 247 assist it in carrying out its duties. The Board may determine the duties of such staff and fix their salaries or
 248 compensation within the amounts appropriate therefor. The duties of the executive director shall include
 249 management of (i) inspections and audits of local, regional, or community correctional facilities conducted
 250 pursuant to § 53.1-68 ~~and~~; (ii) reviews of the deaths of inmates that occur in any local, regional, or
 251 community correctional facility conducted pursuant to § 53.1-69.1; and (iii) *the statewide uniform reporting*
 252 *system to collect and analyze data related to complaints received by local, regional, and community*
 253 *correctional facilities established by the Board pursuant to § 53.1-5. The executive director shall (a) attend*
 254 *each hearing conducted by the Board and provide any testimony, documents, data, or information requested*
 255 *by Board members; (b) meet at least twice each year with the Chair of the Board and the Governor to report*
 256 *on the work and findings of the Board; and (c) provide testimony before the relevant committees of the*
 257 *General Assembly upon request from any committee chairman or vice-chairman.*

258 **§ 53.1-6.2. Communications; confidentiality.**

259 A. *Unless otherwise part of the public record, the following records shall be kept confidential from the*
 260 *general public and not subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.):*

261 1. *Complaints received by the Board, as well as statements, documentation, and other evidence received*
 262 *or maintained by the Board or its agents in connection with complaints made to or investigations undertaken*
 263 *pursuant to the Board's powers under §§ 53.1-68 and 53.1-6.3, including the identities of recipients of Board*
 264 *services, complainants, and individuals from whom information is acquired.*

265 2. *Photographs or video recordings taken within a local, regional, or community correctional facility*
 266 *pursuant to subsection D of § 53.1-6, if the Board determines that such photographs or video recordings*
 267 *contain information that is not otherwise publicly available and their dissemination to the public would*
 268 *jeopardize the safety or security of inmates or employees of the local, regional, or community correctional*
 269 *facility, or they can be used to identify inmates.*

270 3. *Personal identifying information about corrections staff received during the course of an investigation.*

271 B. *The Board shall establish rules and procedures to ensure the confidentiality of such information*
 272 *gathered and maintained by the Board. The Board shall not reveal to (i) correctional facility employees or*
 273 *contractors or (ii) other inmates the identity of a complainant before, during, or after an investigation to the*
 274 *greatest extent practicable, except as is necessary to effectively carry out an investigation.*

275 C. *Notwithstanding anything else in this section, the Board shall disclose information as needed to*
 276 *prevent reasonably certain death or substantial bodily harm.*

277 D. *The Board shall keep confidential all matters under investigation, including the identities of recipients*
 278 *of Board services, complainants, and individuals from whom information is acquired, unless disclosure is*
 279 *necessary for the performance of its duties. If the Board receives personal identifying information about*
 280 *corrections staff during the course of an investigation that is unnecessary or unrelated to the subject of the*
 281 *investigation or related recommendation, the Board shall not further disclose such information. Prior to the*
 282 *disclosure of any such information, the Board shall provide notice to the applicable staff person and the*
 283 *sheriff, jail superintendent or other jail administrator, or other person in charge of the facility.*

284 E. *Upon receipt of information that is confidential or privileged, the Board shall maintain the*
 285 *confidentiality of such information and shall not further disclose or disseminate the information except as*
 286 *provided by applicable state or federal law or as authorized by this section.*

287 **§ 53.1-6.3. Authority to investigate complaints.**

288 A. *The Board may initiate and attempt to resolve an investigation upon its own initiative, or upon receipt*
 289 *of a complaint from an inmate, a family member or representative of an inmate, or a local, regional, or*
 290 *community correctional facility employee or contractor, or others, regarding (i) abuse or neglect; (ii)*
 291 *conditions of confinement; (iii) decisions or administrative actions by a local, regional, or community*
 292 *correctional facility; (iv) inactions or omissions of a local, regional, or community correctional facility; (v)*
 293 *local, regional, or community correctional facility policies, rules, or procedures; or (vi) alleged violations of*
 294 *law by local, regional, or community correctional facility employees or contractors that may adversely affect*
 295 *the health, safety, welfare, or rights of inmates.*

296 B. *The Board may decline to investigate any complaint. Upon declining to investigate a complaint, the*
 297 *Board shall notify the complainant in writing of the decision not to investigate and shall include the reasons*
 298 *for such decision. If the complainant is an inmate, the Board shall inform the inmate that the inmate is*
 299 *entitled to use the local, regional, or community correctional facility policies regarding resolution of inmate*
 300 *grievances and shall provide information and a complete set of forms to the inmate to complete the resolution*
 301 *of inmate grievances. The local, regional, or community correctional facility shall toll any procedural*
 302 *deadlines imposed on inmates for filing a grievance or complaint as part of the administrative remedy*

303 process until five business days after the inmate received the information and forms from the Board by inmate
304 legal mail process. The Board shall decline to investigate a complaint if the inmate has failed to first use the
305 local, regional, or community correctional facility policies regarding resolution of inmate grievances, unless
306 the inmate provides evidence that the complaint is legitimate and the inmate made a good faith attempt to
307 exhaust the administrative remedy process and was impeded or procedurally defaulted by no fault of his own.
308 If the Board finds that inmates repeatedly assert their inability to utilize the administrative remedy process
309 despite their good faith efforts, the Board may conduct an unannounced inspection of the facility in question
310 to determine whether the facility is making the administrative process and grievance forms accessible to
311 inmates.

312 C. The Board shall not investigate any complaints relating to an inmate's underlying criminal arrest,
313 charge, or conviction. The Board may refer the complainant and others to the appropriate resources or state
314 or federal agencies.

315 D. The Board may not levy any fees for the submission or investigation of complaints.

316 E. At the conclusion of an investigation, the Board shall render a decision on the merits of each
317 complaint. The Board shall communicate the decision to the complainant and to the local, regional, or
318 community correctional facility. The Board shall state its recommendations and reasoning if the Board
319 determines that the local, regional, or community correctional facility, or any employee or contractor
320 thereof, should (i) consider the matter further; (ii) modify or cancel any action; (iii) alter a rule, practice, or
321 ruling; (iv) explain in detail the administrative action in question; or (v) rectify an omission. Upon request of
322 the Board, the local, regional, or community correctional facility shall inform the Board in writing about any
323 action taken on the recommendations or the reasons for not complying with such recommendations.
324 Aggregated information related to complaints received and complaint resolutions shall be made publicly
325 available pursuant to § 53.1-5.

326 F. If the Board believes that there has been or continues to be a significant issue with inmate health,
327 safety, welfare, or rehabilitation, the Board shall report the finding to the Governor, the Attorney General,
328 the Senate Committee on Rehabilitation and Social Services, the House Committee on Public Safety, and the
329 sheriff, jail superintendent or other jail administrator, or other person in charge of the facility.

330 G. In the event that a local, regional, or community correctional facility conducts its own internal
331 disciplinary investigation and review of one or more staff members as a result of the investigation of the
332 Board, such disciplinary investigation and review may be subject to additional investigation and review by
333 the Board to ensure a fair and objective process.

334 H. Prior to announcing a conclusion or recommendation, the Board shall consult with the local, regional,
335 or community correctional facility or any person individually named in the conclusion or recommendation.
336 The Board may request to be notified, within a specified time, by the local, regional, or community
337 correctional facility of any action taken on any recommendation presented.

338 I. The local, regional, or community correctional facility and any employees or contractors thereof shall
339 not discharge, retaliate against, or in any manner discriminate against any person because such person has
340 filed any complaint or instituted or caused to be instituted any proceeding pursuant to this article. Any
341 alleged discharge, retaliation against, or discrimination against a complainant may be considered by the
342 Board as an appropriate subject for investigation.

343 **§ 53.1-6.4. Inmate and family support services.**

344 A. For the purposes of this section:

345 "Covered issue" includes (i) sanitation in correctional facilities; (ii) access to proper nutrition and clean
346 and adequate water supplies; (iii) habitable temperatures in correctional facilities; (iv) physical or sexual
347 abuse from fellow inmates; (v) physical or sexual abuse from staff, contractors, or volunteers; (vi) credible
348 threats against self from other inmates, staff, or contractors; (vii) neglect of staff or contractors that results
349 in physical or sexual trauma; (viii) denial or violation of rights; (ix) access to visitation and communication
350 with family and legal representation; (x) access to medical or mental health care or substance abuse
351 treatment; (xi) access to educational and rehabilitative programming, drug and mental health treatment, and
352 inmate jobs and vocational training; (xii) access to the local, regional, or community correctional facility's
353 administrative remedies process for inmates and their representatives, including the availability of complaint
354 and grievance forms and the timely, unbiased resolution of grievances; and (xiii) adequate and qualified
355 staffing in each local, regional, or community correctional facility.

356 "Family member" means a grandparent, parent, sibling, spouse or domestic partner, child, parent's
357 sibling, cousin, sibling's child, grandchild, or any other person related by blood, adoption, marriage, or a
358 fostering relationship.

359 B. The Board shall provide a statewide toll-free telephone number, a mailing address, and paper and
360 electronic forms for inmates, family members, friends, and advocates to submit complaints and inquiries
361 regarding covered issues on behalf of an inmate incarcerated in a local, regional, or community correctional
362 facility. Upon receipt of a complaint or inquiry, the Board shall (i) confirm receipt of such complaint or
363 injury and (ii) make a determination and notify the complainant as to whether an investigation is warranted.

364 Paper forms shall be made available to all inmates and shall be provided to inmates upon request to a local,
 365 regional, or community correctional facility employee or contractor, including when the inmate is in
 366 administrative segregation or solitary confinement. Local, regional, or community correctional facility
 367 employees and contractors must treat such paper forms as confidential and privileged in the same manner as
 368 legal correspondence or communication. All incoming and outgoing inmate mail is subject to the local,
 369 regional, or community correctional facility security screening processes and procedures. The Board and
 370 sheriff, jail superintendent or other jail administrator, or other person in charge of the facility shall
 371 guarantee that calls made by inmates, employees, and contractors to file complaints and inquiries with the
 372 Board regarding covered issues are confidential and are not monitored or recorded.

373 C. The provisions of subsection 1 of § 53.1-6.3 shall apply to complaints or inquiries made pursuant to
 374 this section.

375 D. The executive director of the Board shall develop a short-term and long-term strategic plan that (i) is
 376 informed by visits to local, regional, or community correctional facilities, at least two public meetings,
 377 consultation with stakeholders, and review of best practices in other states; (ii) includes procedures for
 378 coordination with existing employees at the Board and local, regional, or community correctional facilities,
 379 in collaboration with those employees and with the goal of complementing existing efforts; and (iii) includes
 380 potential options and recommendations for legislation and budget actions that would support its short-term
 381 and long-term goals. The Board shall provide a report on its initial activities and strategic plan to the
 382 Governor and the General Assembly on or before November 15, 2026.

383 **§ 53.1-6.5. Exhaustion of remedies.**

384 Any action or lack of action by the Board on a complaint made pursuant to this article shall not be
 385 deemed an administrative procedure required for exhaustion of remedies before bringing an action pursuant
 386 to 42 U.S.C. § 1997(e).

387 **§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections,**
 388 **behavioral health services inspections, and personnel.**

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

- 401 1. Any policies and procedures related to the care of inmates;
 - 402 2. Conditions of confinement;
 - 403 3. Availability of educational and rehabilitative programming, drug and mental health treatment, and
 404 inmate jobs and vocational training;
 - 405 4. Any policies and procedures related to visitation;
 - 406 5. Operation of stores and commissaries and systems for providing electronic visitation and messaging
 407 and telephone calls, including the fees charged for items and services and any contracts that the local
 408 correctional facility has entered into with private companies for the provision of such items and services;
 - 409 6. Any medical facilities and medical policies and procedures;
 - 410 7. Any lockdowns at the facility in the time since the last inspection or, in the instance of the initial
 411 inspection, any lockdowns at the facility within the previous three years;
 - 412 8. Staffing at the facility, including the number of staff, job assignments, the ratio of staff to inmates, and
 413 the number of staff vacancies;
 - 414 9. Physical or sexual assaults at the facility in the time since the last inspection or, in the instance of the
 415 initial inspection, any physical or sexual assaults within the previous three years;
 - 416 10. Inmate or staff deaths at the facility in the time since the last inspection or, in the instance of the
 417 initial inspection, any inmate or staff deaths within the previous three years;
 - 418 11. Any policies and procedures related to correctional facility staff recruitment, training, supervision,
 419 and discipline;
 - 420 12. Availability of complaint and grievance forms at the facility and the accessibility of the administrative
 421 remedies process to inmates and their representatives; and
 - 422 13. Any other aspect of the operation of the facility that the Board determines is necessary to assess or
 423 that relates to a covered issue as specified in § 53.1-6.4.
- 424 B. Upon completion of an inspection, the Board shall produce a report to be made available to the public

425 *online and to be delivered to the Governor, the Attorney General, the Senate Committee on Rehabilitation*
426 *and Social Services, the House Committee on Public Safety, and the sheriff, jail superintendent or other jail*
427 *administrator, or other person in charge of the facility. The report shall include a summary of all the factors*
428 *listed in subsection A, any recommendations and a safety and compliance classification with a recommended*
429 *timeline for the next inspection, and the sheriff's, jail superintendent's or other jail administrator's, or other*
430 *person in charge of the facility's response to the inspection.*

431 *C. The levels of classification shall be as follows:*

432 *1. A Tier I classification means that the facility has clear violations of rights, risks to the safety of*
433 *inmates, or a severe lack of quality programming necessary for the successful rehabilitation of individuals.*
434 *Such classification shall require a subsequent inspection within 12 months.*

435 *2. A Tier II classification means that the facility has violations of rights, substandard conditions of*
436 *confinement, or substandard programming options. Such classification shall require a subsequent inspection*
437 *within 18 to 36 months.*

438 *3. A Tier III classification means that the facility has adequate conditions of confinement and*
439 *programming options. Such classification shall require a subsequent inspection within 36 months.*

440 *D. The correctional facility shall respond in writing to each inspection report issued by the Board within*
441 *30 days of the issuance of the report and in its response shall include a corrective action plan. The Board*
442 *shall monitor the correctional facility's compliance with the corrective action plan and may conduct further*
443 *inspections or investigations as necessary to ensure such compliance.*

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

450 *F. The Board shall establish minimum standards for behavioral health services in local correctional*
451 *facilities and procedures for enforcing such minimum standards, with the advice of and guidance from the*
452 *Commissioner of Behavioral Health and Developmental Services and the State Inspector General.*

453 *Such standards shall include:*

454 *1. Requirements for behavioral health services provided in jails, including requirements for (i) behavioral*
455 *health screening of individuals committed to local correctional facilities; (ii) referral of individuals committed*
456 *to local correctional facilities for whom a behavioral health screening indicates reason to believe the person*
457 *may have mental illness to a behavioral health service provider for a behavioral health assessment; and (iii)*
458 *the provision of behavioral health services in local correctional facilities, as well as regulations directing the*
459 *sharing of medical and mental health information and records in accordance with § 53.1-133.03.*
460 *Requirements related to behavioral health screenings and assessments shall include a requirement that in*
461 *cases in which there is reason to believe an individual is experiencing acute mental health distress or is at risk*
462 *for suicide, (a) staff of the local correctional facility shall consult with the behavioral health service provider*
463 *to implement immediate interventions and shall provide ongoing monitoring to ensure the safety of the*
464 *individual and (b) the behavioral health assessment shall be completed within 72 hours of completion of the*
465 *behavioral health screening, except that if the 72-hour period ends on a day that is a Saturday, Sunday, or*
466 *legal holiday, the assessment shall be completed by the close of business on the next day that is not a*
467 *Saturday, Sunday, or legal holiday;*

468 *2. Requirements for discharge planning for individuals with serious mental illness assessed as requiring*
469 *behavioral health services upon release from the local correctional facility, which shall include (i) creation of*
470 *a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1,*
471 *and (ii) coordination of services and care with community providers, community supervision agencies, and,*
472 *as appropriate, the individual's family in accordance with the discharge plan until such time as the individual*
473 *has begun to receive services in accordance with the discharge plan or for a period of 30 days following*
474 *release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to*
475 *the full continuum of care for the individual upon release from the local correctional facility and shall include*
476 *provisions for (a) linking the individual for whom the discharge plan has been prepared to the community*
477 *services board in the jurisdiction in which he will reside following release and to other supports and services*
478 *necessary to meet his service needs and (b) communication of information regarding the individual's*
479 *treatment needs and exchange of treatment records among service providers;*

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

485 *4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a*

486 regional correctional facility by and payment by such sheriff or superintendent to a community services board
487 that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

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

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

495 **§ 53.1-127. Who may enter interior of local correctional facilities; searches of those entering.**

496 A. Members of the local governing bodies that participate in the funding of a local correctional facility
497 may go into the interior of that facility. The Governor; *and* members of the General Assembly; ~~and agents of~~
498 ~~the Board~~ may go into the interior of any local correctional facility. In addition, (i) Department of Corrections
499 staff and state and local health department staff shall, in the performance of their duties, have access to the
500 interior of any local correctional facility subject to the standards promulgated pursuant to subsections A and
501 ~~B E~~ of § 53.1-68 *and* (ii) *the Board and agents of the Board, including the executive director of the Board*
502 *and his staff, shall have access to all local, regional, and community correctional facilities pursuant to §§*
503 *53.1-6 and 53.1-68. Attorneys shall be permitted in the interior of a local correctional facility to confer with*
504 *prisoners who are their clients and with prisoners who are witnesses in cases in which they are involved.*
505 *Except for the announced or unannounced inspections authorized pursuant to subsections A and B E of §*
506 *53.1-68 ~~or~~, a review conducted pursuant to § 53.1-69.1, or any access by the Board and agents of the Board,*
507 *including the executive director of the Board and his staff, pursuant to §§ 53.1-6 and 53.1-68, the sheriff, jail*
508 *administrator, or other person in charge of the facility shall prescribe the time and conditions under which*
509 *attorneys and other persons may enter the local correctional facility for which he is responsible.*

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