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SENATE BILL NO. 1283

Offered January 8, 2025

Prefiled January 8, 2025

A BILL to amend and reenact §§ 2.2-1837, 2.2-3703, 8.01-195.10, 8.01-690, 19.2-353.5, 53.1-1, 53.1-31.1, 53.1-71.1, 53.1-71.4, 53.1-261, 53.1-262, and 53.1-265 of the Code of Virginia and to repeal §§ 53.1-71.2, 53.1-71.3, 53.1-71.5, 53.1-263, 53.1-264, and 53.1-266 of the Code of Virginia, relating to state and regional correctional facilities; private management prohibited.

Patron—Ebbin

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1837, 2.2-3703, 8.01-195.10, 8.01-690, 19.2-353.5, 53.1-1, 53.1-31.1, 53.1-71.1, 53.1-71.4, 53.1-261, 53.1-262, and 53.1-265 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-1837. Risk management plan for public liability.

A. Subject to the approval of the Governor, the Division shall establish a risk management plan, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance to provide:

1. Protection against liability imposed by law for damages resulting from any claim:

a. Made against any state department, agency, institution, board, commission, officer, agent, or employee for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization;

b. Made against participants, other than professional counsel, in student disciplinary proceedings at public institutions of higher education for nonmalicious acts or omissions of any nature in the course and scope of participation in the proceedings; or

c. Resulting from an authorized indemnification agreement entered into by a public institution of higher education in the Commonwealth in accordance with this subsection.

A public institution of higher education in the Commonwealth may execute an indemnification agreement if the Governor (i) considers in advance of execution (a) the institution's analysis of the relevant public benefit and risk of liability, (b) the Division's charge to be assessed against the institution for providing insurance or self-insurance coverage for the claims resulting from the indemnification agreement, and (c) the Office of the Attorney General's comments and (ii) determines that execution is necessary to further the public's best interests.

The indemnification agreement shall limit the institution's total liability to a stated dollar amount and shall notify the contractor that the full faith and credit of the Commonwealth are not pledged or committed to payment of the institution's obligation under the agreement. However, no such institution shall be authorized to enter into an indemnification agreement in accordance with this subsection to indemnify any person or entity against damages arising from a sponsored project conducted by such institution. For the purposes of this section, a "sponsored project" is a research, instruction, or service project conducted at a public institution of higher education in the Commonwealth pursuant to a grant, cooperative agreement, or other contract;

2. Protection against tort liability and incidental medical payments arising out of the ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of their employment;

3. For the payment of attorney fees and expenses incurred in defending such persons and entities concerning any claim that (i) arises from their governmental employment or authorization, that (ii) arises from their participation in such student disciplinary proceedings, or (iii) is described in any such indemnification agreement, where the Division is informed by the Attorney General's office that it will not provide a defense due to a conflict or other appropriate reason; and

4. For the payment of attorney fees and expenses awarded to any individual or entity against the Commonwealth, or any department, agency, institution, board, commission, officer, agent, or employee of the Commonwealth for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity, or in reliance upon any constitutional provision, or law of the Commonwealth. It is the obligation of the Division to provide for such indemnification regardless of whether there is a request for or an award of damages associated with the award of such fees and expenses.

a. As a condition of coverage for the payment of attorney fees and expenses, the department, agency, institution, board, commission, officer, agent, or employee of the Commonwealth shall (i) promptly notify the Division of the commencement of any claim, suit, action or other proceeding prior to its settlement, (ii)

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59 provide the Division with full nonprivileged information on the matter as requested, and (iii) permit the
 60 Division to participate in the investigation of such claim, suit, action or other proceeding. Failure to promptly
 61 notify the Division or to reasonably cooperate may, at the Division's discretion, result in no payment or a
 62 reduced payment being made.

63 b. The Division shall set the premium and administrative costs to be paid to it for providing payment of
 64 attorney fees and expenses awarded pursuant to this section. The premiums and administrative costs set by
 65 the Division shall be payable in the amounts, at the time and in the manner that the Division in its sole
 66 discretion requires. Premiums and administrative costs shall be set to best ensure the financial stability of the
 67 plan.

68 B. Any risk management plan established pursuant to this section shall provide for the establishment of a
 69 trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims covered under
 70 the plan. The funds shall be invested as provided in § 2.2-1806 and interest shall be added to the fund as
 71 earned. The trust fund shall also provide for payment of administrative costs, contractual costs, and other
 72 expenses related to the administration of such plan.

73 C. The risk management plan for public liability shall be submitted to the Governor for approval prior to
 74 implementation.

75 D. The risk management plan established pursuant to this section shall provide protection against
 76 professional liability imposed by law as provided in § 24.2-121, resulting from any claim made against a
 77 local electoral board, any of its members, any general registrar, or any employee of or paid deputy to a
 78 registrar for acts or omissions of any nature while acting in an authorized governmental or proprietary
 79 capacity and in the course and scope of employment or authorization, regardless of whether or not the civil
 80 action requests monetary damages, subject to the limitations of the risk management plan.

81 E. The risk management plan established pursuant to this section shall provide protection against any
 82 claim made against any soil and water conservation district, director, officer, agent or employee thereof, (i)
 83 arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or
 84 maintained by any such district or used by district employees or other authorized persons in the course of
 85 their employment or (ii) arising out of acts or omissions of any nature while acting in an authorized
 86 governmental or proprietary capacity and in the course and scope of employment or authorization.

87 F. The risk management plan established pursuant to this section shall provide protection against
 88 professional liability imposed by law for damages resulting from any claim made against a local school board
 89 selection commission or local school board selection commission members for acts or omissions of any
 90 nature while acting in an authorized governmental or proprietary capacity and in the course and scope of
 91 authorization, subject to the limitations of the risk management plan.

92 G. The risk management plan established pursuant to this section shall provide coverage for any matter
 93 that involves or could involve an action or proceeding against a judge, the nature of which is designed to
 94 determine whether discipline or other sanction of the judge for malfeasance or misfeasance is appropriate or
 95 to otherwise determine the fitness of the judge to hold office or to continue his employment. No coverage or
 96 indemnification shall be made pursuant to this subsection when the Supreme Court of Virginia finds that the
 97 judge should be censured or removed from office pursuant to § 10 of Article VI of the Constitution of
 98 Virginia or statutes enacted pursuant thereto.

99 H. The risk management plan established pursuant to this section shall provide protection against claims
 100 made against chaplains by persons incarcerated in a state correctional facility; *or* a juvenile correctional
 101 center; ~~or a facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.)~~ arising
 102 out of services provided by the chaplains to such incarcerated persons, regardless of whether such services
 103 were provided on a volunteer basis or for compensation. For the purposes of this subsection, chaplains shall
 104 include only those persons; who, at the time any claim may arise, were acting pursuant to, and in compliance
 105 with, an agreement between the chaplain or an organization to which the chaplain belongs; and the
 106 Department of Corrections; *or* the Department of Juvenile Justice; ~~or an operator of a facility operated~~
 107 ~~pursuant to the Corrections Private Management Act.~~

108 **§ 2.2-3703. Public bodies and records to which chapter inapplicable; voter registration and election**
 109 **records; access by persons incarcerated in a state, local, or federal correctional facility.**

110 A. The provisions of this chapter shall not apply to:

111 1. Petit juries and grand juries;

112 2. Family assessment and planning teams established pursuant to § 2.2-5207;

113 3. Sexual assault response teams established pursuant to § 15.2-1627.4 and human trafficking response
 114 teams established pursuant to § 15.2-1627.6, except that records relating to (i) protocols and policies of the
 115 sexual assault or human trafficking response team and (ii) guidelines for the community's response
 116 established by the sexual assault or human trafficking response team shall be public records and subject to the
 117 provisions of this chapter;

118 4. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

119 5. The Virginia State Crime Commission; and

120 6. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are

121 custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are
 122 custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such
 123 records shall be requested in accordance with the provisions of §§ 16.1-69.54:1 and 17.1-208, as appropriate.
 124 However, other records maintained by the clerks of such courts shall be public records and subject to the
 125 provisions of this chapter.

126 B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2
 127 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

128 C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford
 129 any rights to any person (i) incarcerated in a state, local, or federal correctional facility, whether or not such
 130 facility is ~~(a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management~~
 131 ~~Act (§ 53.1-261 et seq.),~~ or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900
 132 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their
 133 constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a
 134 criminal prosecution.

135 **§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.**

136 A. The purpose of this article is to provide directions and guidelines for the compensation of persons who
 137 have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration is
 138 governed by Article IV, § 14 of the Constitution of Virginia, which prohibits the General Assembly from
 139 granting relief in cases in which the courts or other tribunals may have jurisdiction. No compensation shall be
 140 awarded under this article unless the recipient has executed a release and waiver pursuant to subsection B of §
 141 8.01-195.12. The payment and receipt of any compensation for wrongful incarceration shall be contingent
 142 upon the General Assembly appropriating funds for that purpose. This article shall not provide an entitlement
 143 to compensation for persons wrongfully incarcerated or require the General Assembly to appropriate funds
 144 for the payment of such compensation.

145 B. As used in this article:

146 "Incarceration" or "incarcerated" means (i) confinement in a local or regional correctional facility,
 147 juvenile correctional center, state correctional facility, or residential detention center; or (ii) *confinement in a*
 148 *facility operated pursuant to the Corrections Private Management Services Act (§ 53.1-261 et seq.) prior to*
 149 *July 1, 2028.*

150 "Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for
 151 which the conviction has been vacated pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) or 19.3 (§ 19.2-327.10
 152 et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for the commission of a
 153 crime that he did not commit.

154 **§ 8.01-690. Applicability provisions.**

155 The provisions of this chapter shall apply to all pro se civil actions for money damages brought under the
 156 laws of this Commonwealth, or for injunctive, declaratory, or mandamus relief, brought by prisoners
 157 incarcerated in any state or local correctional facility; ~~or operated pursuant to the Corrections Private~~
 158 ~~Management Act (§ 53.1-261 et seq.).~~

159 **§ 19.2-353.5. Interest on fines and costs.**

160 A. For purposes of this section, "incarcerated" or "incarceration" means confinement in a local or regional
 161 correctional facility, juvenile correctional facility, state correctional facility, residential detention center, or
 162 facility operated pursuant to the Corrections Private ~~Management~~ *Services Act (§ 53.1-261 et seq.) prior to*
 163 *July 1, 2028.*

164 B. No interest shall accrue on any fine or costs imposed in a criminal case or in a case involving a traffic
 165 infraction (i) for a period of 180 days following the date of the final judgment imposing such fine or costs;
 166 (ii) during any period the defendant is incarcerated; and (iii) for a period of 180 days following the date of the
 167 defendant's release from incarceration if the sentence includes an active term of incarceration.

168 C. A person who owes fines and costs on which interest has accrued during a period of incarceration may
 169 move any court in which he owes fines and costs to waive the interest that accrued on such fines and costs
 170 during such period of incarceration. Upon certification of the period of incarceration by the superintendent,
 171 warden, or other official in charge of a correctional facility on a form developed by the Office of the
 172 Executive Secretary of the Supreme Court, such interest shall be waived.

173 D. In no event shall interest accrue during any period in which a fine, costs, or both a fine and costs are
 174 being paid in deferred or installment payments pursuant to an order of the court. Whenever interest on any
 175 unpaid fine or costs accrues, it shall accrue at the judgment rate of interest set forth in § 6.2-302.

176 **§ 53.1-1. Definitions.**

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

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

179 "Community correctional facility" means any group home, halfway house or other physically unrestricting
 180 facility used for the housing, treatment or care of adult offenders established or operated with funds
 181 appropriated to the Department of Corrections from the state treasury and maintained or operated by any

182 political subdivision, combination of political subdivisions or privately operated agency within the
183 Commonwealth.

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

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

190 "Department" means the Department of Corrections.

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

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

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

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

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

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

212 **§ 53.1-31.1. Transportation of prisoners.**

213 A. Notwithstanding any other provision of law, the Department shall provide all transportation to and
214 from court for any prisoner in connection with a crime committed within a state correctional facility, ~~or a~~
215 ~~facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.),~~ unless the affected
216 sheriff and the Department agree on other transportation. Auxiliary police forces established under §
217 15.2-1731 who have met the training requirements of § 9.1-102, with the concurrence of the sheriff or other
218 chief law-enforcement officer as appropriate, are specifically authorized to provide such transportation.

219 B. Authorized corrections personnel from any other state, the United States, and any political subdivisions
220 thereof who transport a prisoner through the Commonwealth, deliver a prisoner to the Commonwealth, or
221 take custody of a prisoner in the Commonwealth for transport to another jurisdiction are deemed to have
222 lawful custody of such prisoner while in the Commonwealth.

223 C. Authorized Virginia corrections personnel who have a need to travel with a prisoner through or to
224 another state are authorized to travel through such state and retain authority over such prisoner as allowed by
225 such state.

226 Article 1.1.

227 Private ~~Operation~~ of Services at Regional Jail Facilities.

228 **§ 53.1-71.1. Private construction, maintenance, etc., of regional jail facility.**

229 A. Any regional jail authority constituted pursuant to Article 3.1 (§ 53.1-95.2 et seq.) or 5 (§ 53.1-105 et
230 seq.) of Chapter 3 of Title 53.1 may contract with a private entity for the financing, site selection, acquisition,
231 construction, maintenance, *or* leasing; ~~management, or operation~~ of a regional jail facility.

232 B. Any project authorized pursuant to subsection A ~~of this section~~ shall be subject to the requirements and
233 limitations set out below:

234 1. Contracts entered into under the terms of this article shall be with an entity submitting an acceptable
235 response pursuant to a request for proposals. An acceptable response shall be one ~~which~~ *that* meets all the
236 requirements in the request for proposals. However, no contract for correctional services may be entered into
237 unless the private contractor demonstrates that it has:

238 a. The qualifications; *and* experience ~~and management personnel~~ necessary to carry out the terms of this
239 contract;

240 b. The financial resources to provide indemnification for liability arising from jail ~~management~~ projects;

241 c. Evidence of past performance of similar contracts; and

242 d. The ability to comply with all applicable federal and state constitutional standards; federal, state, and

243 local laws; court orders; and correctional standards.

244 2. Contracts awarded under the provisions of this article, including contracts for the provision of
245 correctional services or for the lease or use of public lands or buildings for use in the operation of facilities,
246 may be entered into for a period of up to ~~thirty~~ 30 years, subject to the requirements for expenditure of funds
247 by the local governing bodies.

248 3. No contract for correctional services shall be entered into which would adversely affect the tax-exempt
249 status of obligations issued or to be issued to finance the facility, and unless the following requirements are
250 met:

251 a. The contractor provides audited financial statements for the previous five years or for each of the years
252 the contractor has been in operation, if fewer than five years, and provides other financial information as
253 requested; and

254 b. The contractor provides an adequate plan of indemnification, specifically including indemnity for civil
255 rights claims. The indemnification plan shall be adequate to protect the combination of counties or cities and
256 public officials from all claims and losses incurred as a result of the contract. The indemnification plan shall
257 include liability insurance in limits of not less than ~~five~~ \$5 million ~~dollars~~. Nothing herein is intended to
258 deprive a regional jail facility contractor or the combination of counties or cities of the benefits of any law
259 limiting exposure to liability or setting a limit on damages.

260 4. No contract for correctional services shall be executed unless:

261 a. The proposed contract has been reviewed and approved by the Board;

262 b. An appropriation for the services to be provided under the contract has been expressly approved as is
263 otherwise provided by law;

264 c. The correctional services proposed by the contract are of at least the same quality as those routinely
265 provided by a regional jail facility to similar types of inmates; and

266 d. An evaluation of the proposed contract demonstrates a cost benefit to the combination of counties or
267 cities when compared to alternative means of providing the services through governmental agencies.

268 **§ 53.1-71.4. Powers and duties not delegable to contractor.**

269 The regional jail authority issuing the contract shall retain the authority and responsibility for the rules and
270 procedures as they apply to the treatment of prisoners, and no contract for correctional services shall
271 authorize, allow, or imply a delegation of authority or responsibility to a regional jail facility contractor for
272 any of the following:

273 1. Developing and implementing procedures for calculating inmate release dates;

274 2. Developing and implementing procedures for calculating and awarding sentence credits;

275 3. Approving inmates for furlough and work release;

276 4. Approving the type of work inmates may perform and the wages or sentence credits which may be
277 given the inmates engaging in such work;

278 5. Granting, denying, or revoking sentence credits;

279 6. Classifying inmates or placing inmates in less restrictive custody or more restrictive custody;

280 7. Transferring an inmate; however, the contractor may make written recommendations regarding the
281 transfer of an inmate or inmates;

282 8. Formulating rules of inmate behavior, violations of which may subject inmates to sanctions; however,
283 the contractor may propose such rules for review and adoption, rejection, or modification as otherwise
284 provided by law or regulation; ~~and~~

285 9. Disciplining inmates in any manner which requires a discretionary application of rules of inmate
286 behavior or a discretionary imposition of a sanction for violations of such rules; *or*

287 10. *Operating a regional jail facility, including management, custody of inmates, or provision of security.*

288 **CHAPTER 15.**

289 **CORRECTIONS PRIVATE MANAGEMENT SERVICES ACT.**

290 **§ 53.1-261. Definitions.**

291 As used in this chapter, unless the context requires ~~otherwise or it is otherwise provided~~ a different
292 meaning:

293 "Correctional services" means the following functions, services, and activities when provided within a
294 prison or otherwise:

295 1. ~~Operation of facilities, including management, custody of inmates and provision of security;~~

296 ~~2. Food services, commissary, medical services, transportation, sanitation, or other ancillary services;~~

297 ~~3. 2. Development and implementation assistance for classification, management information systems, or~~
298 other information systems or services;

299 4. 3. Education, training, and employment programs;

300 5. 4. Recreational, religious, and other activities; and

301 6. 5. Counseling, special treatment programs, or other programs for special needs.

302 "Prison" or "facility" or "prison facility" means any institution operated by or under authority of the
303 Department and shall include, whether obtained by purchase, lease, construction, reconstruction, restoration,

304 improvement, alteration, repair or other means, any physical betterment or improvement related to the
 305 housing of inmates or any preliminary plans, studies or surveys relative thereto; land or rights to land; and
 306 any furnishings, machines, vehicles, apparatus, or equipment for use in connection with any prison facility.

307 "Prison contractor" or "contractor" means any entity, including a local government, entering into or
 308 offering or proposing to enter into a contractual agreement to provide any correctional services to inmates
 309 under the custody of the Commonwealth or federal inmates under the custody of the prison contractor, while
 310 in the Commonwealth of Virginia.

311 **§ 53.1-262. State correctional facilities; private contracts.**

312 The Director, subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.), is
 313 hereby authorized to enter into contracts with prison contractors for the financing, site selection, acquisition,
 314 construction, maintenance, *or* leasing; ~~management or operation~~ of prison facilities, or any combination of
 315 those services, subject to the *following* requirements and limitations ~~set out below~~:

316 1. Contracts entered into under the terms of this chapter shall be with an entity submitting an acceptable
 317 response pursuant to a request for proposals. An acceptable response shall be one ~~which~~ *that* meets all the
 318 requirements in the request for proposals. However, no contract for correctional services may be entered into
 319 unless the private contractor demonstrates that it has:

320 a. The qualifications, *and* experience ~~and management personnel~~ necessary to carry out the terms of this
 321 contract;

322 b. The financial resources to provide indemnification for liability arising from prison ~~management~~
 323 projects;

324 c. Evidence of past performance of similar contracts which shall include the experience of persons in
 325 management with such entity and may include the experience of the parent of such entity; and

326 d. The ability to comply with all applicable federal and state constitutional standards; federal, state, and
 327 local laws; court orders; and correctional standards.

328 2. Contracts awarded under the provisions of this chapter, including contracts for the provision of
 329 correctional services or for the lease or use of public lands or buildings for use in the operation of facilities,
 330 may be entered into for a period of up to ~~thirty~~ 30 years, subject to the requirements for annual appropriation
 331 of funds by the Commonwealth.

332 3. ~~Contracts awarded under the provisions of this chapter shall, at a minimum, comply with the following:~~

333 ~~a. Provide for internal and perimeter security to protect the public, employees and inmates;~~

334 ~~b. Provide inmates with work or training opportunities while incarcerated; however, the contractor shall~~
 335 ~~not benefit financially from the labor of inmates;~~

336 ~~e. Impose discipline on inmates only in accordance with applicable regulations; and~~

337 ~~d. Provide proper food, clothing, housing and medical care for inmates.~~

338 4. No contract for correctional services shall be entered into unless the following requirements are met:

339 a. The contractor provides audited financial statements for the previous five years or for each of the years
 340 the contractor has been in operation, if fewer than five years, and provides other financial information as
 341 requested; and

342 b. The contractor provides an adequate plan of indemnification, specifically including indemnity for civil
 343 rights claims. The indemnification plan shall be adequate to protect the Commonwealth and public officials
 344 from all claims and losses incurred as a result of the contract. Nothing herein is intended to deprive a prison
 345 contractor or the Commonwealth of the benefits of any law limiting exposure to liability or setting a limit on
 346 damages.

347 ~~5-~~ 4. No contract for correctional services shall be executed by the Director nor shall any funds be
 348 expended for the contract unless:

349 a. The proposed contract complies with any applicable regulations ~~which~~ *that* may be promulgated by the
 350 Director ~~pursuant to § 53.1-266~~;

351 b. An appropriation for the services to be provided under the contract has been expressly approved as is
 352 otherwise provided by law;

353 c. The correctional services proposed by the contract are of at least the same quality as those routinely
 354 provided by the Department to similar types of inmates; and

355 d. An evaluation of the proposed contract demonstrates a cost benefit to the Commonwealth when
 356 compared to alternative means of providing the services through governmental agencies.

357 ~~6-~~ 5. A site proposed by a contractor for the construction of a prison facility shall not be subject to the
 358 approval procedure set forth in § 53.1-19. However, no contract for the construction ~~and operation~~ of a
 359 ~~private~~ correctional facility shall be entered into nor shall any funds be expended for the contract unless the
 360 local governing body, by duly adopted resolution, consents to the siting and construction of such facility
 361 within the boundaries of the locality.

362 **§ 53.1-265. Powers and duties not delegable to contractor.**

363 No contract for correctional services shall authorize, allow, or imply a delegation of authority or
 364 responsibility of the Director to a prison contractor for any of the following:

365 1. Developing and implementing procedures for calculating inmate release and parole eligibility dates;

- 366 2. Developing and implementing procedures for calculating and awarding sentence credits;
367 3. Approving inmates for furlough and work release;
368 4. Approving the type of work inmates may perform and the wages or sentence credits ~~which~~ *that* may be
369 given the inmates engaging in such work;
370 5. Granting, denying, or revoking sentence credits;
371 6. Classifying inmates or placing inmates in less restrictive custody or more restrictive custody;
372 7. Transferring an inmate; however, the contractor may make written recommendations regarding the
373 transfer of an inmate or inmates;
374 8. Formulating rules of inmate behavior, violations of which may subject inmates to sanctions; however,
375 the contractor may propose such rules to the Director for his review and adoption, rejection, or modification
376 as otherwise provided by law or regulation; ~~and~~
377 9. Disciplining inmates in any manner ~~which~~ *that* requires a discretionary application of rules of inmate
378 behavior or a discretionary imposition of a sanction for violations of such rules; *and*
379 *10. Operating a prison facility, including management, custody of inmates, or provision of security.*
380 **2. That §§ 53.1-71.2, 53.1-71.3, 53.1-71.5, 53.1-263, 53.1-264, and 53.1-266 of the Code of Virginia are**
381 **repealed.**
382 **3. That the first and second enactments of this act shall become effective on July 1, 2028.**
383 **4. That the Department of Corrections (the Department) and regional jail authorities shall each**
384 **develop and implement a plan to ensure that all correctional facilities are in compliance with the**
385 **provisions of this act by July 1, 2028. Such plan shall include provisions stating that when the**
386 **Department assumes operation of a correctional facility formerly operated or managed by a private**
387 **contractor, the Department shall give priority to former employees of such correctional facility during**
388 **any hiring process.**