

SENATE BILL NO. 83
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Senator Salim)

A BILL to amend and reenact § 53.1-5 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 16.1-69.35:4, 17.1-128.2, 18.2-469.1, 53.1-120.1, and 53.1-127.2:1, relating to security policies for courthouses and local or regional correctional facilities; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-5 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 16.1-69.35:4, 17.1-128.2, 18.2-469.1, 53.1-120.1, and 53.1-127.2:1 as follows:

§ 16.1-69.35:4. Possession and use of portable electronic device in district courts.

A. As used in this section:

"Portable electronic device" means (i) a personal laptop; (ii) a tablet; (iii) a mobile telephone, including a cell phone and any telephone with a camera, audio and video recording capabilities, and transmission capabilities; (iv) an electronic calendar; (v) an electronic book reader; (vi) a smart watch; or (vii) any other electronic personal communication device. "Portable electronic device" does not include a camera, a video camera, video or audio recording equipment, or a recording device that is not otherwise a component of a portable electronic device.

"Visitor to the court" means a member of the public who is not an active or retired judge, a magistrate, an attorney-at-law who possesses and presents a valid state bar identification card, a law-enforcement officer as defined in § 9.1-101 or court security officer, a probation officer who possesses and presents proper credentials and who is at the courthouse in the conduct of his official duties, a state or local agency employee who possesses and presents proper credentials and who is at the courthouse in the conduct of his official duties, a court reporter during the course of his official duties within the courthouse, and any other individual who has been authorized to possess a portable electronic device in the court upon a determination by the sheriff of the city or county in which the court sits that such individual's possession of a portable electronic device does not pose a security risk or threat and that access to such portable electronic device is necessary for conducting such individual's work or business in the court.

B. Except as otherwise provided by this subsection, the chief judge of every district court shall set a policy for possession of portable electronic devices by visitors to the court. If such policy prohibits or restricts the

use of portable electronic devices in the courtroom of the district court, the chief judge shall also include in such policy provisions to ensure that any portable electronic device brought by a visitor to the court for the purposes of presenting evidence be made available for use by such visitor to the court during a proceeding. Before finalizing the policy, the chief judge of the district court shall consult the chief judge of the circuit court having jurisdiction in the district and the sheriff of the city or county in which the courthouse is located. The sheriff shall be responsible for advising and training all appropriate personnel on such policy. In the event that a district court is located inside the same courthouse building as the circuit court, the chief judge of such circuit court shall set the policy for the entire courthouse, including the district court courtrooms, in accordance with the provisions of § 17.1-128.2. If a general district court and a juvenile and domestic relations district court are located within the same courthouse building, but not in the same building as the circuit court of the same jurisdiction, the chief judges of such general district court and juvenile and domestic relations district court shall set the policy by agreement.

C. The chief judge of the district court shall allow visitors to the court to possess portable electronic devices in both the courthouse and the courtroom and may condition such possession upon certain limitations, including (i) requiring a security screening of the portable electronic device upon entrance to the courthouse; (ii) restricting the use of the portable electronic device only in a specific area or areas of the courthouse, including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting the use of mobile telephones, including designating certain areas of the courthouse where phone conversations may be had; (iv) requiring that all portable electronic devices remain on silent mode at all times; (v) prohibiting the use of a portable electronic device while the visitor to the court is in a courtroom except with the express permission of the presiding judge; or (vi) any other conditions as needed to maintain safety, security, proper behavior, order, and the administration of justice. Nothing in this subsection shall be construed to permit any courthouse personnel to search or access any data on the portable electronic device of a visitor to the court, including during a security screening as described in clause (i).

D. The policy of each district court set in accordance with this section shall be posted in an accessible, prominent, and conspicuous manner at the entrance of the district court and on (i) the individual district court page on the Virginia Judicial System website or equivalent website where statewide courthouse information is aggregated; (ii) a court's individual website; or (iii) if the court does not have an individual website, an equivalent local government website where such district court's information is communicated to the public. Such posting shall include any prohibition, restriction, condition, and limitation on the use of any portable electronic device by visitors to the court and, if applicable, the process for ensuring that evidence

64 *from a portable electronic device may be presented in a courtroom.*

65 *E. Any portable electronic device used in violation of a district court's policy or related court order may*
66 *be confiscated and the court or sheriff's department responsible for providing court security shall not be*
67 *liable for any damage to or loss of such confiscated portable electronic device.*

68 *F. Any use of a portable electronic device in the courthouse or courtrooms to take photographs, make*
69 *audio or video recordings, or transmit live audio or video streaming shall be prohibited except with prior*
70 *written authorization by a judge of the district court.*

71 ***§ 17.1-128.2. Possession and use of portable electronic device in circuit courts.***

72 *A. As used in this section, "portable electronic device" and "visitor to the court" mean the same as those*
73 *terms are defined in § 16.1-69.35:4.*

74 *B. The chief judge of every circuit court shall set a policy for possession of portable electronic devices by*
75 *visitors to the court. If such policy prohibits or restricts the use of portable electronic devices in the*
76 *courtroom of the circuit court, the chief judge shall also include in such policy provisions to ensure that any*
77 *portable electronic device brought by a visitor to the court for the purposes of presenting evidence be made*
78 *available for use by such visitor to the court during a proceeding. Before finalizing the policy, the chief judge*
79 *shall consult with the chief judge or chief judges of the district court or district courts having jurisdiction in*
80 *the district and with the sheriff of the city or county in which the courthouse is located. The sheriff shall be*
81 *responsible for advising and training all appropriate personnel on such policy.*

82 *C. The chief judge of the circuit court shall allow visitors to the court to possess portable electronic*
83 *devices in both the courthouse and the courtroom and may condition such possession upon, including (i)*
84 *requiring a security screening of the portable electronic device upon entrance to the courthouse; (ii)*
85 *restricting the use of the portable electronic device only in a specific area or areas of the courthouse,*
86 *including the lobby, hallways, or other designated areas within the courthouse; (iii) restricting the use of*
87 *mobile telephones, including designating certain areas of the courthouse where phone conversations may be*
88 *had; (iv) requiring that all portable electronic devices remain on silent mode at all times; (v) prohibiting the*
89 *use of a portable electronic device while the visitor to the court is in a courtroom except with the express*
90 *permission of the presiding judge; or (vi) any other conditions as needed to maintain safety, security, proper*
91 *behavior, order, and the administration of justice. Nothing in this subsection shall be construed to permit any*
92 *courthouse personnel to search or access any data on the portable electronic device of a visitor to the court,*
93 *including during a security screening as described in clause (i).*

94 *D. The policy of each circuit court set in accordance with this section shall be posted in an accessible,*

prominent, and conspicuous manner at the entrance of the circuit court and on (i) the individual circuit court page on the Virginia Judicial System website or equivalent website where statewide courthouse information is aggregated; (ii) a court's individual website; or (iii) if the court does not have an individual website, an equivalent local government website where such circuit court's information is communicated to the public. Such posting shall include any prohibition, restriction, condition, and limitation on the use of any portable electronic device by visitors to the court, and, if applicable, the process for ensuring that evidence from a portable electronic device may be presented in a courtroom.

E. Any portable electronic device used in violation of a circuit court's policy or related court order may be confiscated and the court or sheriff's department responsible for providing court security shall not be liable for any damage to or loss of such confiscated portable electronic device.

F. Any use of a portable electronic device in the courthouse or courtrooms to take photographs, make audio or video recordings, or transmit live audio or video streaming shall be prohibited except with prior written authorization by a judge of the circuit court.

§ 18.2-469.1. Presenting Virginia State Bar-issued bar card when license revoked or suspended; penalty.

Any attorney who has had his license to practice law in the Commonwealth suspended or revoked and who displays a Virginia State Bar-issued attorney member bar card for the purposes of holding himself out to be exempt from a security screening at the entrance of a courthouse in accordance with the provisions of § 53.1-120.1 is guilty of a Class 1 misdemeanor.

§ 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;

7. To develop and implement policies for the accommodation in local, regional, and community correctional facilities of inmate participation in telehealth appointments, which shall include policies on designating a private space for such telehealth appointments to occur; ~~and~~

8. To develop and establish minimum standards for ensuring that attorneys have sufficient opportunities to conduct confidential visits with their clients who are held in local, regional, and community correctional facilities. Such minimum standards shall, taking into consideration facility schedules, space, personnel constraints, and inmate disciplinary status, include some opportunity for visitation of clients on the weekends and after 5:00 p.m.; and

9. 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. The report shall include (i) a summary of the results of such inspections and audits, including any trends identified by such inspections and audits 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 to improve the operations, safety, and security of local, regional, or community correctional facilities.

§ 53.1-120.1. Courthouse security; certain persons exempt from security screening.

Any sheriff who exempts courthouse employees from any security screening required to enter a courthouse within the sheriff's jurisdiction, including by allowing courthouse employees to enter through any entrance that is not for public use, shall also exempt any attorney who displays a valid Virginia State Bar-issued attorney member bar card and a government-issued identification. The sheriff shall report to the appropriate law-enforcement agency and to the Virginia State Bar any attorney who enters or attempts to enter a courthouse with (i) a weapon in violation of § 18.2-283.1 or (ii) any item belonging to a person who is not exempt from such security screening and who would otherwise be prohibited from possessing such item inside of the courthouse.

§ 53.1-127.2:1. Provision of telephonic or electronic means for communication with attorney.

When a sheriff or jail superintendent who operates a local correctional facility provides a telephonic, electronic, or web-based communication system for prisoners, such system shall include a confidential means for a prisoner to communicate with his attorney at regular and reasonable times. Such times shall be published on a publicly available website. Additionally, each sheriff or jail superintendent shall accommodate requests by any attorney representing a prisoner in the local correctional facility operated by such sheriff or jail superintendent to provide reasonable opportunities for such prisoner to review correspondence from his attorney, discovery, and trial materials in anticipation of trial so such prisoner is able to assist in his own defense.

2. That the State Board of Local and Regional Jails shall collect data regarding the number of local and regional jails that, as of July 1, 2026, provide telephonic, electronic, or web-based communication systems as described in § 53.1-127.2:1, as amended by this act, and assess the cost of providing such telephonic, electronic, or web-based communication systems in each local or regional jail where such systems are not already provided. The State Board of Local and Regional Jails shall report its findings and recommendations to the Chairs of the Senate Committee for Courts of Justice and House Committee on Public Safety by November 1, 2026.