

HOUSE BILL NO. 1041
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by
on)

(Patron Prior to Substitute—Delegate Carr)

A BILL to amend and reenact § 53.1-10 of the Code of Virginia, relating to Department of Corrections; functional literacy program for inmates; data sharing and tracking; salary schedules for teachers; Virginia Prison Education Task Force established; report.

SENATE BILL NO. _____ HOUSE BILL NO. _____

Be it enacted by the General Assembly of Virginia:

1. That § 53.1-10 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-10. Powers and duties of Director.

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

1. To supervise and manage the Department and its system of state correctional facilities;
2. To implement the standards and goals of the Board as formulated for local and community correctional programs and facilities and lock-ups;
3. To employ such personnel and develop and implement such programs as may be necessary to carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within the limits of appropriations made therefor by the General Assembly;
4. To establish and maintain a general system of schools for persons committed to the institutions and community-based programs for adults as set forth in § 53.1-67.9. Such system shall include, as applicable, elementary, secondary, postsecondary, career and technical education, adult, and special education schools.
 - a. The Director shall employ a Superintendent who will oversee the operation of educational and vocational programs in all institutions and community-based programs for adults as set forth in § 53.1-67.9 operated by the Department. The Department shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.
 - b. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

c. The Superintendent shall develop a functional literacy program for inmates testing below a selected grade level, which shall be at least at the twelfth grade level *and include evidence-based literacy instruction, as defined by § 22.1-1*. The program shall include guidelines for implementation and test administration, participation requirements, criteria for satisfactory completion, and a strategic plan for encouraging enrollment at an institution of higher education or an accredited vocational training program or other accredited continuing education program.

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

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

f. The Superintendent shall:

(1) Share data with the state entity that oversees the management, direction, and governance of the Commonwealth's education and workforce data for the purpose of developing educational, health, social service, and employment outcome data and improving the efficacy of state services;

(2) Share data with the Virginia Community College System necessary for comprehensive community colleges to apply for and maintain eligibility as Federal Pell Grant-eligible prison education programs pursuant to 34 C.F.R. § 668.238; and

(3) Track and publicly report at least annually the number of incarcerated individuals eligible for, enrolled in, and waitlisted for the functional literacy program required to be implemented by subdivision c.

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

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the

facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

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

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

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

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

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

10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that occurred in a state correctional facility, of that defendant's known gang membership. The notice shall contain

92 identifying information for each criminal gang member as well as his criminal record;

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

104 12. To prescribe and enforce rules prohibiting the possession of obscene materials, as defined in Article 5
105 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities;

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

109 14. To promulgate regulations pursuant to the Administrative Process Act (§ 2.2-4000 et seq.) to
110 effectuate the provisions of Chapter 5.1 (§ 32.1-162.16 et seq.) of Title 32.1 for human research, as defined in
111 § 32.1-162.16, to be conducted or authorized by the Department. The regulations shall require the human
112 research committee to submit to the Governor, the General Assembly, and the Director or his designee at
113 least annually a report on the human research projects reviewed and approved by the committee and shall
114 require the committee to report any significant deviations from the proposals as approved;

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

16. To develop and implement policies for the accommodation in state correctional facilities of inmate participation in telehealth appointments, which shall include policies on designating a private space for such telehealth appointments to occur.

2. That there is hereby established the Virginia Prison Education Task Force (the Task Force) for the purpose of implementing a consistent education program across all state correctional facilities operated by the Department of Corrections. The Task Force shall be administered jointly by the Secretary of Labor and the Secretary of Education and consist of the following members: (i) two members of the Senate who are not members of the same political party, who shall be appointed by the Senate Committee on Rules; (ii) two members of the House of Delegates who are not members of the same political party, who shall be appointed by the Speaker of the House of Delegates; (iii) the Secretary of Finance or his designee; (iv) the Secretary of Education or his designee; (v) the Secretary of Labor or his designee; (vi) the Secretary of Commerce and Trade or his designee; (vii) the Director of the Department of Corrections or his designee; (viii) the Commissioner of the Department of Workforce Development and Advancement or his designee; (ix) the Chief Information Officer of the Virginia Information Technologies Agency or his designee; (x) the Chancellor of the Virginia Community College System or his designee; (xi) the Director of the Department of Housing and Community Development or his designee; (xii) the Research Director of the Virginia Office of Education Economics or his designee; (xiii) the President of the Virginia Chamber of Commerce or his designee; (xiv) the Director of the State Council of Higher Education for Virginia or his designee; (xv) the Superintendent of Public Instruction or his designee; (xvi) three formerly incarcerated individuals appointed by the Secretary of Labor, including one individual who was enrolled in the Department of Corrections' Adult Basic Education program while incarcerated, one individual who was enrolled in postsecondary coursework while incarcerated, and one individual who was not able to access education services while incarcerated; (xvii) a member of a faith-based organization with expertise in prison higher education appointed by the Secretary of Labor; (xviii) a member of a criminal justice advocacy organization appointed by the Secretary of Labor; (xix) a representative with expertise in management of state education and workforce data to be appointed by the Secretary of Labor; and (xx) any other stakeholders as may be appropriate appointed by the Secretary of Labor. The Secretary of Labor shall serve as the chair of the Task Force. A majority of the members of the Task Force shall constitute a

152 quorum. The Task Force shall meet at least four times a year and upon the call of the chair or at the
153 request of a majority of the members. The Task Force shall make recommendations on the
154 development and implementation of a consistent education program across all state correctional
155 facilities operated by the Department of Corrections as proposed in the engrossed bill with
156 Amendments by the Senate Committee on Education and Health to House Bill 2158 of the 2025 Session
157 of the General Assembly (House Bill 2158). In making such recommendations, the Task Force shall (a)
158 analyze existing and potential state and federal funding programs and develop a strategy to maximize
159 securement and use of available funds; (b) recommend additional budget requests to meet the goals of
160 implementation of the education programs proposed by House Bill 2158; (c) review and support
161 development of the interagency agreements between the Department of Corrections, the
162 Superintendent of Public Instruction, the Chancellor of the Virginia Community College System, and
163 the Chief Information Officer of the Virginia Information Technologies Agency as proposed by the
164 provisions of House Bill 2158; (d) advise and support the Department of Corrections in developing a
165 strategy to reduce waitlists for participation in the literacy and education programs proposed under
166 the provisions of House Bill 2158; (e) study and recommend the most effective ways to facilitate data
167 collection, sharing, and analysis relating to prison education; (f) study and recommend the most
168 effective ways to increase technological infrastructure in all state correctional facilities operated by the
169 Department of Corrections to support education; (g) study and recommend the most effective ways to
170 establish reentry supports to facilitate positive employment outcomes post release; and (h) conduct
171 regular evaluations of program effectiveness, outcomes, and conditions to inform education program
172 improvement. The Task Force shall establish a Higher Education Advisory Group (the Advisory
173 Group), which shall, at a minimum, consist of the following members of the Task Force: the
174 Commissioner of the Department of Workforce Development and Advancement, the Chancellor of the
175 Virginia Community College System, the Director of the Department of Corrections, and the Chief
176 Information Officer of the Virginia Information Technologies Agency, or their designees, and a
177 member of a faith-based organization with expertise in prison higher education. The Advisory Group
178 shall make recommendations to the Task Force on a possible interagency agreement between the
179 Chancellor of the Virginia Community College System and the Department of Corrections as proposed
180 in House Bill 2158, necessary technology infrastructure to meet the needs of higher education staff in

state correctional facilities operated by the Department of Corrections, and necessary technology tools to provide incarcerated students coursework commensurate with that provided to nonincarcerated students, including a learning management system, research library access, access to advisors, synchronous teleconference instruction, application suites, and long-term storage for students' academic resource materials and work product. The Task Force shall submit an annual report to the Governor and the Chairmen of the Senate Committee on Finance and Appropriations and the House Committee on Appropriations by November 1 each year, beginning on November 1, 2027, on its activities, findings and recommendations, and progress toward implementing the literacy and education programs described in House Bill 2158. The Task Force shall complete its work by July 1, 2029.

3. That the Department of Education shall, by November 1, 2026, (i) review and update the salary schedules for teachers licensed by the Board of Education and employed by the Department of Corrections to provide instruction in the schools of the correctional centers to be competitive with those in effect for the school division in which the correctional facility is located as described in the engrossed bill with Amendments by the Senate Committee on Education and Health to House Bill 2158 of the 2025 Session of the General Assembly and (ii) make recommendations for the inclusion of such teacher salary increases in the appropriation act.