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HOUSE BILL NO. 1246

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Public Safety
on _____)

(Patron Prior to Substitute—Delegate Glass)

A BILL to amend the Code of Virginia by adding a section numbered 53.1-35.3, relating to state correctional facilities; visitation privileges; Visitation Enhancement Program established.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 53.1-35.3 as follows:

§ 53.1-35.3. Visitation Enhancement Program; enhanced visitation privileges.

A. For the purpose of this section, "enhanced appropriate physical affection" includes kissing, embracing, and touching as long as such physical affection would be acceptable in a public place and does not offend other prisoners and visitors or aid in the introduction of contraband or escape attempts. "Enhanced appropriate physical affection" includes (i) an embrace and kiss at the beginning and at the end of any contact visit; (ii) brief kisses and embraces; (iii) holding hands, as long as the hands are in plain view of staff; (iv) resting hands upon another's shoulders or around another's waist when a prisoner and visitor are sitting next to one another; (v) resting one's head on another's shoulder when a prisoner and visitor are sitting next to one another. "Enhanced appropriate physical affection" does not include unacceptable physical conduct such as prolonged kissing, intercourse, sodomy, touching sexual or other intimate parts of another person, or masturbation.

B. All state correctional facilities shall participate in the Visitation Enhancement Program (the Program) and shall provide visitation privileges to prisoners in accordance with the standards set forth in this section. Allowing visitation privileges for prisoners shall be a priority and unless a visit would violate any state or federal law, such visitation privileges may only be revoked by a state correctional facility based on documented risks to facility safety and emergencies.

C. All prisoners in state correctional facilities shall be classified within one of three phases of the Program, which shall be based on the class level at which the prisoner earns good time such as good conduct time pursuant to Article 2 (§ 53.1-192 et seq.) of Chapter 6, good conduct allowances pursuant to Article 3 (§ 53.1-198 et seq.) of Chapter 6, or earned sentence credits pursuant to Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 as follows:

1. A prisoner earning any such good time at Level II, Level III, or Level IV shall be classified as Phase I and shall be permitted a minimum of one visitation period per week during which visitors shall be permitted to visit for at least two hours and up to four hours.

2. A prisoner earning any such good time at Level I for a period of up to one year shall be classified as Phase II and shall be permitted a minimum of three visitation periods per week, including on at least one weekday, during which visitors shall be permitted to visit for at least two hours and up to four hours.

3. A prisoner earning any such good time at Level I for a period of one or more consecutive years shall be classified as Phase III and shall be (i) permitted a minimum of four visitation periods per week, including one at least one weekday, during which visitors shall be permitted to visit for at least two hours and up to four hours; (ii) permitted to participate in holiday family meals with visitors, which shall allow a prisoner an additional period of visitation on designated holidays for at least two hours and up to four hours during which food may be provided by the prisoner's visitors, subject to security requirements; and (iii) to the extent possible, allowed access to visitation in designated outdoor areas of the state correctional facility.

D. Visitors shall be permitted to visit a prisoner for at least two hours prior to a visit being terminated due to capacity issues. If the visitation area is at maximum capacity, state correctional facility staff shall ask visitors, on a voluntary basis, to end their visit. If a sufficient number of visitors fail to volunteer, staff shall terminate visits, beginning with the first visitors processed, until the required seating or space is available for incoming visitors.