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HOUSE BILL NO. 126

House Amendments in [] - February 4, 2026

A BILL to amend and reenact § 53.1-68 of the Code of Virginia, relating to local, regional, and community correctional facilities; access to counsel for inmates.

Patron Prior to Engrossment—Delegate Callsen

Referred to Committee on Public Safety

Be it enacted by the General Assembly of Virginia:**1. That § 53.1-68 of the Code of Virginia is amended and reenacted as follows:**

§ 53.1-68. Minimum standards for local correctional facilities and lock-ups; health inspections, behavioral health services inspections, and personnel; access to counsel for inmates in local, regional, or community correctional facilities.

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

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

C. The Board shall establish minimum standards for behavioral health services in local 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 the State Inspector General.

Such standards shall include:

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

2. Requirements for discharge planning for individuals with serious mental illness assessed as requiring behavioral health services upon release from the local correctional facility, which shall include (i) creation of a discharge plan, as soon as practicable after completion of the assessment required pursuant to subdivision 1, and (ii) coordination of services and care with community providers, community supervision agencies, and, as appropriate, the individual's family in accordance with the discharge plan until such time as the individual has begun to receive services in accordance with the discharge plan or for a period of 30 days following release from the local correctional facility, whichever occurs sooner. Discharge plans shall ensure access to the full continuum of care for the individual upon release from the local correctional facility and shall include provisions for (a) linking the individual for whom the discharge plan has been prepared to the community services board in the jurisdiction in which he will reside following release and to other supports and services

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necessary to meet his service needs and (b) communication of information regarding the individual's treatment needs and exchange of treatment records among service providers;

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

4. Provisions for the billing of the sheriff in charge of a local correctional facility or superintendent of a regional correctional facility by and payment by such sheriff or superintendent to a community services board that provides behavioral health services in the local correctional facility, in accordance with § 53.1-126.

D. The Board shall establish standards to ensure access to counsel, including access to attorneys, paralegals, investigators, and other legal staff, for inmates held in any local, regional, or community correctional facility, and to facilitate compliance with the requirements for such access pursuant to 6VAC15-40-680 of the Virginia Administrative Code. Notwithstanding any other provision of law, the Board shall adhere to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.) in promulgating these standards. Such standards shall include:

1. A requirement that, subject to safety, space, and resource constraints, inmates have in-person access to counsel in a confidential setting inside the facility, as well as access to counsel via secure and confidential telephone or video conference that is not recorded or monitored by any person. Access to counsel, either in person or via telephone or video conference, shall be available during regular business hours and at least some evenings and weekend days each week;

2. A requirement that local, regional, and community correctional facility policies and procedures for requesting and scheduling access to counsel be publicly posted and that counsel be promptly notified if their scheduled legal visit must be delayed, canceled, or otherwise restricted; [and]

3. A requirement that any denial or postponement of access to counsel be approved by a supervisor working in the correctional facility and accompanied by a rationale explaining the denial or postponement, which shall be provided in writing upon request of counsel [÷ and

4. A process by which counsel can submit complaints of noncompliance to the Board and procedures for the Board to address such complaints] .

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

Æ. F. The superintendent of a regional jail or jail farm shall establish minimum performance standards and management practices to govern the employees for whom the superintendent is responsible.

2. That the Board shall establish standards for inmates' access to counsel as required by the provisions of this act no later than January 1, 2027.