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SENATE BILL NO. 1033

Offered January 17, 2020

A BILL to amend and reenact §§ 2.2-1837, 2.2-3007, 8.01-195.10, 9.1-801, 9.1-903, 16.1-249, 16.1-269.1, 16.1-285.1, 16.1-285.2, 16.1-309.4, 16.1-322.5, 16.1-322.6, 18.2-48.1, 18.2-431.1, 18.2-473, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-477.2, 22.1-209.1:2, 22.1-289, 29.1-317, 51.1-212, 66-3, 66-10, 66-13, 66-13.1, 66-18, 66-22.1, 66-25.1:1, 66-25.1:3, 66-25.2:1, 66-25.3, 66-25.4, 66-25.6, and 66-25.7 of the Code of Virginia, relating to juvenile community correctional centers and facilities; establishment; placement of juveniles.

Patrons—Locke, Boysko and McClellan

Unanimous consent to introduce

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-1837, 2.2-3007, 8.01-195.10, 9.1-801, 9.1-903, 16.1-249, 16.1-269.1, 16.1-285.1, 16.1-285.2, 16.1-309.4, 16.1-322.5, 16.1-322.6, 18.2-48.1, 18.2-431.1, 18.2-473, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-477.2, 22.1-209.1:2, 22.1-289, 29.1-317, 51.1-212, 66-3, 66-10, 66-13, 66-13.1, 66-18, 66-22.1, 66-25.1:1, 66-25.1:3, 66-25.2:1, 66-25.3, 66-25.4, 66-25.6, and 66-25.7 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

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59 proprietary capacity, or in reliance upon any constitutional provision, or law of the Commonwealth. It is
60 the obligation of the Division to provide for such indemnification regardless of whether there is a
61 request for or an award of damages associated with the award of such fees and expenses.

62 a. As a condition of coverage for the payment of attorney fees and expenses, the department, agency,
63 institution, board, commission, officer, agent, or employee of the Commonwealth shall (i) promptly
64 notify the Division of the commencement of any claim, suit, action or other proceeding prior to its
65 settlement, (ii) provide the Division with full nonprivileged information on the matter as requested, and
66 (iii) permit the Division to participate in the investigation of such claim, suit, action or other proceeding.
67 Failure to promptly notify the Division or to reasonably cooperate may, at the Division's discretion,
68 result in no payment or a reduced payment being made.

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

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

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

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

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

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

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

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

115 **§ 2.2-3007. Certain employees of the Departments of Corrections and Juvenile Justice.**

116 A. Employees of the Departments of Corrections and Juvenile Justice who work in institutions or
117 juvenile *community* correctional centers or have client, inmate, or resident contact and who are
118 terminated on the grounds of client, inmate, or resident abuse, criminal conviction, or as a result of
119 being placed on probation under the provisions of § 18.2-251, may appeal their termination only through
120 the Department of Human Resource Management applicable grievance procedures, which shall not

121 include successive grievance steps or the formal hearing provided in § 2.2-3005.

122 B. If no resolution is reached, the employee may advance the grievance to the circuit court of the
123 jurisdiction in which the grievance occurred for a de novo hearing on the merits of the termination. In
124 its discretion, the court may refer the matter to a commissioner in chancery to take such evidence as
125 may be proper and to make a report to the court. Both the grievant and the respondent may call upon
126 witnesses and be represented by legal counsel or other representatives before the court or the
127 commissioner in chancery. Such representatives may examine, cross-examine, question and present
128 evidence on behalf of the grievant or respondent before the court or commissioner in chancery without
129 being in violation of the provisions of § 54.1-3904.

130 C. A termination shall be upheld unless shown to have been unwarranted by the facts or contrary to
131 law or policy.

132 **§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.**

133 A. The purpose of this article is to provide directions and guidelines for the compensation of persons
134 who have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration
135 is governed by Article IV, Section 14 of the Constitution of Virginia, which prohibits the General
136 Assembly from granting relief in cases in which the courts or other tribunals may have jurisdiction and
137 any individual seeking payment of state funds for wrongful incarceration shall be deemed to have
138 waived all other claims. The payment and receipt of any compensation for wrongful incarceration shall
139 be contingent upon the General Assembly appropriating funds for that purpose. This article shall not
140 provide an entitlement to compensation for persons wrongfully incarcerated or require the General
141 Assembly to appropriate funds for the payment of such compensation. No estate of or personal
142 representative for a decedent shall be entitled to seek a claim for compensation for wrongful
143 incarceration.

144 B. As used in this article:

145 "Incarceration" or "incarcerated" means confinement in a local or regional correctional facility,
146 juvenile *community* correctional center, state correctional facility, residential detention center, or facility
147 operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

148 "Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for
149 which (i) the conviction has been vacated pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) or 19.3
150 (§ 19.2-327.10 et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for
151 the commission of a crime that he did not commit, (ii) the person incarcerated must have entered a final
152 plea of not guilty, or regardless of the plea, any person sentenced to death, or convicted of a Class 1
153 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life, and
154 (iii) the person incarcerated did not by any act or omission on his part intentionally contribute to his
155 conviction for the felony for which he was incarcerated.

156 **§ 9.1-801. Public safety officer defined.**

157 As used in this chapter, the term "public safety officer" includes a law-enforcement officer of the
158 Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a
159 correctional officer employed at a juvenile *community* correctional facility as the term is defined in §
160 66-25.3; a jail officer; a regional jail or jail farm superintendent; a member of any fire company or
161 department or nonprofit or volunteer emergency medical services agency that has been recognized by an
162 ordinance or resolution of the governing body of any county, city, or town of the Commonwealth as an
163 integral part of the official safety program of such county, city, or town; an arson investigator; a
164 member of the Virginia National Guard or the Virginia Defense Force while such a member is serving
165 in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under
166 Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control
167 Authority; any police agent appointed under the provisions of § 56-353; any regular or special
168 conservation police officer who receives compensation from a county, city, or town or from the
169 Commonwealth appointed pursuant to § 29.1-200; any commissioned forest warden appointed pursuant
170 to § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the
171 power to arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials
172 officer; any nonfirefighter regional hazardous materials emergency response team member; any
173 investigator who is a full-time sworn member of the security division of the Virginia Lottery; any
174 full-time sworn member of the enforcement division of the Department of Motor Vehicles meeting the
175 Department of Criminal Justice Services qualifications, when fulfilling duties pursuant to § 46.2-217; any
176 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
177 Title 23.1; and any conservation officer of the Department of Conservation and Recreation
178 commissioned pursuant to § 10.1-115.

179 **§ 9.1-903. Registration procedures.**

180 A. Every person convicted, including juveniles tried and convicted in the circuit courts pursuant to
181 § 16.1-269.1, whether sentenced as an adult or juvenile, of an offense for which registration is required

182 and every juvenile found delinquent of an offense for which registration is required under subsection G
183 of § 9.1-902 shall be required upon conviction to register and reregister with the Department of State
184 Police. The court shall order the person to provide to the local law-enforcement agency of the county or
185 city where he physically resides all information required by the State Police for inclusion in the
186 Registry. The court shall immediately remand the person to the custody of the local law-enforcement
187 agency for the purpose of obtaining the person's fingerprints and photographs of a type and kind
188 specified by the State Police for inclusion in the Registry. Upon conviction, the local law-enforcement
189 agency shall forthwith forward to the State Police all the necessary registration information.

190 B. Every person required to register shall register in person within three days of his release from
191 confinement in a state, or local *correctional facility* or juvenile *community* correctional facility, in a state
192 civil commitment program for sexually violent predators or, if a sentence of confinement is not imposed,
193 within three days of suspension of the sentence or in the case of a juvenile of disposition. A person
194 required to register shall register, and as part of the registration shall submit to be photographed, submit
195 to have a sample of his blood, saliva, or tissue taken for DNA (deoxyribonucleic acid) analysis and
196 submission to the DNA databank to determine identification characteristics specific to the person,
197 provide electronic mail address information, any instant message, chat or other Internet communication
198 name or identity information that the person uses or intends to use, submit to have his fingerprints and
199 palm prints taken, provide information regarding his place of employment, and provide motor vehicle,
200 watercraft and aircraft registration information for all motor vehicles, watercraft and aircraft owned by
201 him. The local law-enforcement agency shall obtain from the person who presents himself for
202 registration or reregistration one set of fingerprints, electronic mail address information, any instant
203 message, chat or other Internet communication name or identity information that the person uses or
204 intends to use, one set of palm prints, place of employment information, motor vehicle, watercraft and
205 aircraft registration information for all motor vehicles, watercraft and aircraft owned by the registrant,
206 proof of residency and a photograph of a type and kind specified by the State Police for inclusion in the
207 Registry and advise the person of his duties regarding reregistration. The local law-enforcement agency
208 shall obtain from the person who presents himself for registration a sample of his blood, saliva or tissue
209 taken for DNA (deoxyribonucleic acid) analysis to determine identification characteristics specific to the
210 person. If a sample has been previously taken from the person, as indicated by the Local Inmate Data
211 System (LIDS), no additional sample shall be taken. The local law-enforcement agency shall forthwith
212 forward to the State Police all necessary registration information.

213 C. To establish proof of residence in Virginia, a person who has a permanent physical address shall
214 present one photo-identification form issued by a governmental agency of the Commonwealth which
215 contains the person's complete name, gender, date of birth and complete physical address. The local
216 law-enforcement agency shall forthwith forward to the State Police a copy of the identification presented
217 by the person required to register.

218 D. Any person required to register shall also reregister in person with the local law-enforcement
219 agency following any change of name or any change of residence, whether within or without the
220 Commonwealth. The person shall register in person with the local law-enforcement agency within three
221 days following his change of name. If his new residence is within the Commonwealth, the person shall
222 register in person with the local law-enforcement agency where his new residence is located within three
223 days following his change in residence. If the new residence is located outside of the Commonwealth,
224 the person shall register in person with the local law-enforcement agency where he previously registered
225 within 10 days prior to his change of residence. If a probation or parole officer becomes aware of a
226 change of name or residence for any of his probationers or parolees required to register, the probation or
227 parole officer shall notify the State Police forthwith of learning of the change. Whenever a person
228 subject to registration changes residence to another state, the State Police shall notify the designated
229 law-enforcement agency of that state.

230 E. Any person required to register shall reregister in person with the local law-enforcement agency
231 where his residence is located within three days following any change of the place of employment,
232 whether within or without the Commonwealth. If a probation or parole officer becomes aware of a
233 change of the place of employment for any of his probationers or parolees required to register, the
234 probation or parole officer shall notify the State Police forthwith upon learning of the change of the
235 person's place of employment. Whenever a person subject to registration changes his place of
236 employment to another state, the State Police shall notify the designated law-enforcement agency of that
237 state.

238 F. Any person required to register shall reregister in person with the local law-enforcement agency
239 where his residence is located within three days following any change of owned motor vehicle,
240 watercraft and aircraft registration information, whether within or without the Commonwealth. If a
241 probation or parole officer becomes aware of a change of owned motor vehicle, watercraft and aircraft
242 registration information for any of his probationers or parolees required to register, the probation or
243 parole officer shall notify the State Police forthwith upon learning of the change of the person's owned

244 motor vehicle, watercraft and aircraft registration information. Whenever a person required to register
 245 changes his owned motor vehicle, watercraft and aircraft registration information to another state, the
 246 State Police shall notify the designated law-enforcement agency of that state.

247 G. Any person required to register shall reregister either in person or electronically with the local
 248 law-enforcement agency where his residence is located within 30 minutes following any change of the
 249 electronic mail address information, any instant message, chat or other Internet communication name or
 250 identity information that the person uses or intends to use, whether within or without the
 251 Commonwealth. If a probation or parole officer becomes aware of a change of the electronic mail
 252 address information, any instant message, chat or other Internet communication name or identity
 253 information for any of his probationers or parolees required to register, the probation or parole officer
 254 shall notify the State Police forthwith upon learning of the change.

255 H. The registration shall be maintained in the Registry and shall include the person's name, any
 256 former name if he has lawfully changed his name during the period for which he is required to register,
 257 all aliases that he has used or under which he may have been known, the date and locality of the
 258 conviction for which registration is required, his fingerprints and a photograph of a type and kind
 259 specified by the State Police, his date of birth, social security number, current physical and mailing
 260 address and a description of the offense or offenses for which he was convicted. The registration shall
 261 also include the locality of the conviction and a description of the offense or offenses for previous
 262 convictions for the offenses set forth in § 9.1-902.

263 I. The local law-enforcement agency shall forthwith forward to the State Police all necessary
 264 registration or reregistration information received by it. Upon receipt of registration or reregistration
 265 information the State Police shall forthwith notify the chief law-enforcement officer of the locality listed
 266 as the person's address on the registration and reregistration.

267 J. If a person required to register does not have a legal residence, such person shall designate a
 268 location that can be located with reasonable specificity where he resides or habitually locates himself.
 269 For the purposes of this section, "residence" shall include such a designated location. If the person
 270 wishes to change such designated location, he shall do it pursuant to the terms of this section.

271 **§ 16.1-249. Places of confinement for juveniles.**

272 A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such
 273 juvenile may be detained, pending a court hearing, in the following places:

- 274 1. An approved foster home or a home otherwise authorized by law to provide such care;
- 275 2. A facility operated by a licensed child welfare agency;
- 276 3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the
 277 Department;
- 278 4. Any other suitable place designated by the court and approved by the Department;
- 279 5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site
 280 of an adult regional jail facility established by any county, city or any combination thereof constructed
 281 after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile
 282 Justice for the holding and detention of juveniles.

283 B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult
 284 offenders or persons charged with crime except as provided in subsection D, E, F or G.

285 C. The official in charge of a jail or other facility for the detention of adult offenders or persons
 286 charged with crime shall inform the court immediately when a juvenile who is or appears to be under
 287 the age of 18 years is received at the facility, and shall deliver him to the court upon request, or transfer
 288 him to a detention facility designated by the court.

289 D. When a case is transferred to the circuit court in accordance with the provisions of subsection A
 290 of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in
 291 accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the
 292 district court, or when the district court has certified a charge to the grand jury pursuant to subsection B
 293 or C of § 16.1-269.1, the juvenile, if in confinement, shall be placed in a juvenile secure facility, unless
 294 the court determines that the juvenile is a threat to the security or safety of the other juveniles detained
 295 or the staff of the facility, in which case the court may transfer the juvenile to a jail or other facility for
 296 the detention of adults, provided that the facility is approved by the State Board of Corrections for the
 297 detention of juveniles.

298 E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security
 299 or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine
 300 whether such juvenile should be transferred to another juvenile facility or, if the child is 14 years of age
 301 or older, a jail or other facility for the detention of adults, provided that (i) the detention is in a room or
 302 ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the
 303 facility is approved by the State Board of Corrections for detention of juveniles.

304 F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a

305 facility creates a threat to the security or safety of the other juveniles detained or the staff of the home
 306 or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is 14 years
 307 of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses
 308 (i), (ii) and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an
 309 additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

310 G. If a juvenile 14 years of age or older is charged with an offense which, if committed by an adult,
 311 would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure
 312 detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a
 313 period not to exceed six hours prior to a court hearing and six hours after the court hearing in a
 314 temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile
 315 to a juvenile facility. Such room or ward may be located in a building which also contains a jail or
 316 other facility for the detention of adults, provided that (i) such room or ward is totally separate and
 317 removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et
 318 seq.), (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of
 319 Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to
 320 prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out
 321 in this subsection.

322 G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to
 323 § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to
 324 exceed six hours, provided that the juvenile is entirely separate and removed from detained adults, or (ii)
 325 in a nonsecure area, provided that constant supervision is provided.

326 H. If a judge, intake officer or magistrate orders the predispositional detention of persons 18 years of
 327 age or older, such detention shall be in an adult facility; however, if the predispositional detention is
 328 ordered for a violation of the terms and conditions of release from a juvenile *community* correctional
 329 center, the judge, intake officer or magistrate may order such detention be in a juvenile facility.

330 I. The Departments of Corrections, Juvenile Justice and Criminal Justice Services shall assist the
 331 localities or combinations thereof in implementing this section and ensuring compliance herewith.

332 **§ 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.**

333 A. Except as provided in subsections B and C, if a juvenile 14 years of age or older at the time of
 334 an alleged offense is charged with an offense which would be a felony if committed by an adult, the
 335 court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold
 336 a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to
 337 the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any
 338 transfer to the appropriate circuit court shall be subject to the following conditions:

339 1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent,
 340 guardian, legal custodian or other person standing in loco parentis; or attorney;

341 2. The juvenile court finds that probable cause exists to believe that the juvenile committed the
 342 delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by
 343 an adult;

344 3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden
 345 is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the
 346 evidence; and

347 4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to
 348 remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person
 349 to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the
 350 following factors:

351 a. The juvenile's age;

352 b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was
 353 committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense
 354 was against persons or property, with greater weight being given to offenses against persons, especially
 355 if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater
 356 than 20 years confinement if committed by an adult; (iv) whether the alleged offense involved the use
 357 of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing
 358 such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

359 c. Whether the juvenile can be retained in the juvenile justice system long enough for effective
 360 treatment and rehabilitation;

361 d. The appropriateness and availability of the services and dispositional alternatives in both the
 362 criminal justice and juvenile justice systems for dealing with the juvenile's problems;

363 e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the
 364 number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of
 365 prior periods of probation, (iii) the number and nature of prior commitments to juvenile *community*
 366 correctional centers, (iv) the number and nature of previous residential and community-based treatments,

367 (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction
 368 of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar
 369 adjudicated offenses;

370 f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional
 371 entity in this or any other jurisdiction;

372 g. The extent, if any, of the juvenile's degree of intellectual disability or mental illness;

373 h. The juvenile's school record and education;

374 i. The juvenile's mental and emotional maturity; and

375 j. The juvenile's physical condition and physical maturity.

376 No transfer decision shall be precluded or reversed on the grounds that the court failed to consider
 377 any of the factors specified in subdivision 4.

378 B. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or
 379 older is charged with murder in violation of § 18.2-31, 18.2-32 or 18.2-40, or aggravated malicious
 380 wounding in violation of § 18.2-51.2.

381 C. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or
 382 older is charged with murder in violation of § 18.2-33; felonious injury by mob in violation of
 383 § 18.2-41; abduction in violation of § 18.2-48; malicious wounding in violation of § 18.2-51; malicious
 384 wounding of a law-enforcement officer in violation of § 18.2-51.1; felonious poisoning in violation of
 385 § 18.2-54.1; adulteration of products in violation of § 18.2-54.2; robbery in violation of § 18.2-58 or
 386 carjacking in violation of § 18.2-58.1; rape in violation of § 18.2-61; forcible sodomy in violation of
 387 § 18.2-67.1; object sexual penetration in violation of § 18.2-67.2; manufacturing, selling, giving,
 388 distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or
 389 an imitation controlled substance in violation of § 18.2-248 if the juvenile has been previously
 390 adjudicated delinquent on two or more occasions of violating § 18.2-248 provided the adjudications
 391 occurred after the juvenile was at least 14 years of age; manufacturing, selling, giving, distributing, or
 392 possessing with intent to manufacture, sell, give, or distribute methamphetamine in violation of
 393 § 18.2-248.03 if the juvenile has been previously adjudicated delinquent on two or more occasions of
 394 violating § 18.2-248.03 provided the adjudications occurred after the juvenile was at least 14 years of
 395 age; or felonious manufacturing, selling, giving, distributing, or possessing with intent to manufacture,
 396 sell, give, or distribute anabolic steroids in violation of § 18.2-248.5 if the juvenile has been previously
 397 adjudicated delinquent on two or more occasions of violating § 18.2-248.5 provided the adjudications
 398 occurred after the juvenile was at least 14 years of age, provided the attorney for the Commonwealth
 399 gives written notice of his intent to proceed pursuant to this subsection. The notice shall be filed with
 400 the court and mailed or delivered to counsel for the juvenile or, if the juvenile is not then represented
 401 by counsel, to the juvenile and a parent, guardian or other person standing in loco parentis with respect
 402 to the juvenile at least seven days prior to the preliminary hearing. If the attorney for the
 403 Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification
 404 of the charge to the grand jury, he may proceed as provided in subsection A.

405 D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the
 406 juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification
 407 shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this
 408 subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and
 409 ancillary charges which may otherwise be properly within the jurisdiction of the juvenile court.

410 If the court does not find probable cause to believe that the juvenile has committed the violent
 411 juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by
 412 dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the
 413 circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney
 414 for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

415 If the court finds that the juvenile was not 14 years of age or older at the time of the alleged
 416 commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 have not been
 417 met, the case shall proceed as otherwise provided for by law.

418 E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile
 419 court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the
 420 Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

421 **§ 16.1-285.1. Commitment of serious offenders.**

422 A. In the case of a juvenile fourteen years of age or older who has been found guilty of an offense
 423 which would be a felony if committed by an adult, and either (i) the juvenile is on parole for an offense
 424 which would be a felony if committed by an adult, (ii) the juvenile was committed to the state for an
 425 offense which would be a felony if committed by an adult within the immediately preceding twelve
 426 months, (iii) the felony offense is punishable by a term of confinement of greater than twenty years if
 427 the felony was committed by an adult, or (iv) the juvenile has been previously adjudicated delinquent

428 for an offense which if committed by an adult would be a felony punishable by a term of confinement
429 of twenty years or more, and the circuit court, or the juvenile or family court, as the case may be, finds
430 that commitment under this section is necessary to meet the rehabilitative needs of the juvenile and
431 would serve the best interests of the community, then the court may order the juvenile committed to the
432 Department of Juvenile Justice for placement in a juvenile *community* correctional center for the period
433 of time prescribed pursuant to this section.

434 Alternatively, in order to determine if a juvenile, transferred from a juvenile and domestic relations
435 district court to a circuit court pursuant to § 16.1-269.1, appropriately qualifies for commitment pursuant
436 to this section, notwithstanding the inapplicability of the qualification criteria set forth in clauses (i)
437 through (iv), the circuit court may consider the commitment criteria set forth in subdivisions 1, 2, and 3
438 of subsection B as well as other components of the juvenile's life history and, if upon such consideration
439 in the opinion of the court the needs of the juvenile and the interests of the community would clearly
440 best be served by commitment hereunder, may so commit the juvenile.

441 B. Prior to committing any juvenile pursuant to this section, the court shall consider:

442 1. The juvenile's age;

443 2. The seriousness and number of the present offenses, including (i) whether the offense was
444 committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the offense was
445 against persons or property, with greater weight being given to offenses against persons, especially if
446 death or injury resulted; (iii) whether the offense involved the use of a firearm or other dangerous
447 weapon by brandishing, displaying, threatening with or otherwise employing such weapon; and (iv) the
448 nature of the juvenile's participation in the alleged offense;

449 3. The record and previous history of the juvenile in this or any other jurisdiction, including (i) the
450 number and nature of previous contacts with courts, (ii) the number and nature of prior periods of
451 probation, (iii) the number and nature of prior commitments to juvenile *community* correctional centers,
452 (iv) the number and nature of previous residential and community-based treatments, (v) whether previous
453 adjudications and commitments were for delinquent acts that involved the infliction of serious bodily
454 injury, and (vi) whether the offense is part of a repetitive pattern of similar adjudicated offenses; and

455 4. The Department's estimated length of stay.

456 Such commitment order must be supported by a determination that the interests of the juvenile and
457 community require that the juvenile be placed under legal restraint or discipline and that the juvenile is
458 not a proper person to receive treatment or rehabilitation through other juvenile programs or facilities.

459 C. In ordering commitment pursuant to this section, the court shall specify a period of commitment
460 not to exceed seven years or the juvenile's twenty-first birthday, whichever shall occur first. The court
461 may also order a period of determinate or indeterminate parole supervision to follow the commitment
462 but the total period of commitment and parole supervision shall not exceed seven years or the juvenile's
463 twenty-first birthday, whichever occurs first.

464 D. Upon receipt of a juvenile committed under the provisions of this section, the Department shall
465 evaluate the juvenile for the purpose of considering placement of the juvenile in an appropriate juvenile
466 *community* correctional center for the time prescribed by the committing court. Such a placement
467 decision shall be made based on the availability of treatment programs at the facility; the level of
468 security at the facility; the offense for which the juvenile has been committed; and the welfare, age and
469 gender of the juvenile.

470 E. The court which commits the juvenile to the Department under this section shall have continuing
471 jurisdiction over the juvenile throughout his commitment. The continuing jurisdiction of the court shall
472 not prevent the Department from removing the juvenile from a juvenile *community* correctional center
473 without prior court approval for the sole purposes of routine or emergency medical treatment, routine
474 educational services, or family emergencies.

475 F. Any juvenile committed under the provisions of this section shall not be released at a time earlier
476 than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The
477 Department may petition the committing court for a hearing as provided for in § 16.1-285.2 for an
478 earlier release of the juvenile when good cause exists for an earlier release. In addition, the Department
479 shall petition the committing court for a determination as to the continued commitment of each juvenile
480 sentenced under this section at least sixty days prior to the second anniversary of the juvenile's date of
481 commitment and sixty days prior to each annual anniversary thereafter.

482 **§ 16.1-285.2. Release and review hearing for serious offender.**

483 A. Upon receipt of a petition of the Department of Juvenile Justice for a hearing concerning a
484 juvenile committed under § 16.1-285.1, the court shall schedule a hearing within thirty days and shall
485 appoint counsel for the juvenile pursuant to § 16.1-266. The court shall provide a copy of the petition,
486 the progress report required by this section, and notice of the time and place of the hearing to (i) the
487 juvenile, (ii) the juvenile's parent, legal guardian, or person standing in loco parentis, (iii) the juvenile's
488 guardian ad litem, if any, (iv) the juvenile's legal counsel, and (v) the attorney for the Commonwealth
489 who prosecuted the juvenile during the delinquency proceeding. The attorney for the Commonwealth

490 shall provide notice of the time and place of the hearing by first-class mail to the last known address of
 491 any victim of the offense for which the juvenile was committed if such victim has submitted a written
 492 request for notification to the attorney for the Commonwealth.

493 B. The petition shall be filed in the committing court and shall be accompanied by a progress report
 494 from the Department. This report shall describe (i) the facility and living arrangement provided for the
 495 juvenile by the Department, (ii) the services and treatment programs afforded the juvenile, (iii) the
 496 juvenile's progress toward treatment goals and objectives, which shall include a summary of his
 497 educational progress, (iv) the juvenile's potential for danger to either himself or the community, and (v)
 498 a comprehensive aftercare plan for the juvenile.

499 B1. The appearance of the juvenile before the court may be by (i) personal appearance before the
 500 judge, or (ii) use of two-way electronic video and audio communication. If two-way electronic video
 501 and audio communication is used, a judge may exercise all powers conferred by law and all
 502 communications and proceedings shall be conducted in the same manner as if the appearance were in
 503 person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or
 504 executed by the officer or person to whom sent, and returned in the same manner, and with the same
 505 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
 506 original signatures. Any two-way electronic video and audio communication system used for an
 507 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

508 C. At the hearing the court shall consider the progress report. The court may also consider additional
 509 evidence from (i) probation officers, the juvenile *community* correctional center, treatment professionals,
 510 and the court service unit; (ii) the juvenile, his legal counsel, parent, guardian or family member; or (iii)
 511 other sources the court deems relevant. The hearing and all records relating thereto shall be governed by
 512 the confidentiality provisions of Article 12 (§ 16.1-299 et seq.) of this chapter.

513 D. At the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to
 514 the Department for completion of the original determinate period of commitment or such lesser time as
 515 the court may order or (ii) release of the juvenile under such terms and conditions as the court may
 516 prescribe. In making a determination under this section, the court shall consider (i) the experiences and
 517 character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile
 518 was found to have committed, (iii) the manner in which the offenses were committed, (iv) the protection
 519 of the community, (v) the recommendations of the Department, and (vi) any other factors the court
 520 deems relevant. The order of the court shall be final and not subject to appeal.

521 E. In the case of a juvenile convicted as an adult and committed as a serious offender under
 522 subdivision A 1 of § 16.1-272, at the conclusion of the review hearing, the circuit court shall order (i)
 523 the juvenile to begin serving any adult sentence in whole or in part that may include any remaining part
 524 of the original determinate period of commitment, or (ii) the suspension of the unserved portion of the
 525 adult sentence in whole or in part based upon the juvenile's successful completion of the commitment as
 526 a serious offender, or (iii) the continued commitment of the juvenile to the Department for completion
 527 of the original determinate period of commitment or such lesser time as the court may order, or (iv) the
 528 release of the juvenile under such terms and conditions as the court may prescribe.

529 **§ 16.1-309.4. Statewide plan for juvenile services.**

530 It shall be the duty of the Department of Juvenile Justice to devise, develop and promulgate a
 531 statewide plan for the establishment and maintenance of a range of institutional and community-based,
 532 diversion, predispositional and postdispositional services to be reasonably accessible to each court. The
 533 Department shall be responsible for the collection and dissemination of the required court data necessary
 534 for the development of the plan. The plan shall utilize the information provided by local plans submitted
 535 under § 16.1-309.3. The plan shall be submitted to the Board on or before July 1 in odd-numbered
 536 years. The plan shall include a biennial forecast with appropriate annual updates as may be required of
 537 future juvenile *community* correctional center and detention home needs.

538 **§ 16.1-322.5. State Board may authorize private construction, operation, etc., of local or**
 539 **regional detention homes, etc.**

540 A. The State Board of Juvenile Justice may authorize a county or city or any combination of
 541 counties, cities, or towns established pursuant to § 16.1-315 to contract with a private entity for the
 542 financing, site selection, acquisition, construction, maintenance, leasing, management or operation of a
 543 local or regional detention home or other secure facility, or any combination of those services. Any
 544 project authorized pursuant to this article shall be consistent with the statewide plan developed pursuant
 545 to § 16.1-309.4.

546 B. Any project the State Board authorizes pursuant to subsection A of this section shall be subject to
 547 the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) and subject to the
 548 requirements and limitations set out below.

549 1. Contracts entered into under the terms of this article shall be with an entity submitting an
 550 acceptable response pursuant to a request for proposals. An acceptable response shall be one which

551 meets all the requirements in the request for proposals. However, no such contract may be entered into
 552 unless the private contractor demonstrates that it has:

553 a. The qualifications, experience and management personnel necessary to carry out the terms of this
 554 contract;

555 b. The financial resources to provide indemnification for liability arising from detention home or
 556 other secure facility management projects;

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

558 d. The ability to comply with all applicable federal and state constitutional standards; federal, state,
 559 and local laws; court orders; and standards for a detention home or other secure facility.

560 2. Contracts awarded under the provisions of this article, including contracts for the provision of
 561 juvenile *community* correctional facilities or programs or for the lease or use of public lands or buildings
 562 for use in the operation of facilities, may be entered into for a period of up to thirty years, subject to the
 563 requirements for expenditure of funds by the local governing body or bodies.

564 3. No contract for juvenile *community* correctional facilities or programs shall be entered into unless
 565 the following requirements are met:

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

569 b. The contractor provides an adequate plan of indemnification, specifically including indemnity for
 570 civil rights claims. The indemnification plan shall be adequate to protect the county or city or
 571 combination of counties, cities, or towns established pursuant to § 16.1-315 and public officials from all
 572 claims and losses incurred as a result of the contract. Nothing herein is intended to deprive a contractor
 573 or the county or city or combination of counties, cities, or towns established pursuant to § 16.1-315 of
 574 the benefits of any law limiting exposure to liability or setting a limit on damages.

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

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

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

579 c. The juvenile *community* correctional facilities or programs proposed by the contract are of at least
 580 the same quality as those routinely provided by a governmental agency to similarly situated children;
 581 and

582 d. An evaluation of the proposed contract demonstrates a cost benefit to the county or city or
 583 combination of counties, cities, or towns established pursuant to § 16.1-315 when compared to
 584 alternative means of providing the services through governmental agencies.

585 **§ 16.1-322.6. Powers and duties not delegable to contractor.**

586 No contract for juvenile *community* correctional facilities or programs shall authorize, allow, or imply
 587 a delegation of authority or responsibility to a juvenile *community* correctional facilities or programs
 588 contractor for any of the following:

589 1. Developing and implementing procedures for calculating a detainee's release date;

590 2. Classifying detainees or placing detainees in less restrictive custody or more restrictive custody;

591 3. Transferring a detainee; however, the contractor may make written recommendations regarding the
 592 transfer of a detainee or detainees;

593 4. Formulating rules of detainee behavior, violations of which may subject detainees to sanctions;
 594 however, the contractor may propose such rules for review and adoption, rejection, or modification as
 595 otherwise provided by law or regulation; and

596 5. Disciplining detainees in any manner which requires a discretionary application of rules of
 597 detainee behavior or a discretionary imposition of a sanction for violations of such rules.

598 **§ 18.2-48.1. Abduction by prisoners or committed persons; penalty.**

599 Any person confined in a state, local, or community correctional facility or committed to the
 600 Department of Juvenile Justice in any juvenile *community* correctional center, or in the custody of an
 601 employee thereof, or who has escaped from any such facility or from any person in charge of such
 602 prisoner or committed person, who abducts or takes any person hostage is guilty of a Class 3 felony.

603 **§ 18.2-431.1. Illegal conveyance or possession of cellular telephone or other wireless**
 604 **telecommunications device by prisoner or committed person; penalty.**

605 A. It is unlawful for any person without authorization to provide or cause to be provided a cellular
 606 telephone or other wireless telecommunications device to an incarcerated prisoner or person committed
 607 to the Department of Juvenile Justice in any juvenile *community* correctional center.

608 B. It is unlawful for an incarcerated prisoner or person committed to the Department of Juvenile
 609 Justice in any juvenile *community* correctional center without authorization to possess a cellular
 610 telephone or other wireless telecommunications device during the period of his incarceration.

611 C. Any violation of this section is a Class 6 felony.

612 **§ 18.2-473. Persons aiding escape of prisoner or child.**

613 When a person is lawfully detained as a prisoner in any jail or prison or held in custody, or when a
 614 child is placed in a local juvenile detention home, or committed to the Department of Juvenile Justice in
 615 any juvenile *community* correctional center, or Reception and Diagnostic Center for Children or held in
 616 custody, if any person: (1) conveys anything into the jail, prison, juvenile detention home, juvenile
 617 *community* correctional center or Reception and Diagnostic Center for Children with intent to facilitate a
 618 person's escape therefrom, (2) in any way aids such prisoner or child to escape, or in an attempt to
 619 escape, from such jail, prison, juvenile detention home, juvenile *community* correctional center,
 620 Reception and Diagnostic Center for Children or custody, or (3) forcibly takes, or attempts to take him
 621 therefrom, such person, if the taking or escape is effected, shall, if the prisoner or child was detained on
 622 conviction, commitment or charge of felony, be confined in a state correctional facility not less than one
 623 year nor more than five years. If the same is not effected, or if the prisoner or child was not detained on
 624 such conviction, commitment or charge, he shall be guilty of a Class 1 misdemeanor.

625 **§ 18.2-473.1. Communication with prisoners or committed person; penalty.**

626 It shall be unlawful for any person outside of any state or local correctional facility or any juvenile
 627 *community* correctional center, other than the jailers or custodial officers in charge of the prisoners or in
 628 charge of the persons committed to the Department of Juvenile Justice, to communicate without
 629 authority by word or sign with the intent to disrupt institutional operations with any prisoner confined
 630 within a state or local correctional facility or with any person committed to the Department of Juvenile
 631 Justice in any juvenile *community* correctional center. Any person violating this section is guilty of a
 632 Class 4 misdemeanor.

633 **§ 18.2-474. Delivery of articles to prisoners or committed person.**

634 No person shall willfully in any manner deliver, or attempt to deliver, to any prisoner confined under
 635 authority of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person
 636 committed to the Department of Juvenile Justice in any juvenile *community* correctional center, any
 637 article of any nature whatsoever, without first securing the permission of the person in whose charge
 638 such prisoner or committed person is, and who may in his discretion grant or refuse permission. Any
 639 person violating this section is guilty of a Class 1 misdemeanor.

640 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

641 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

642 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,
 643 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the
 644 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the
 645 Department of Juvenile Justice in any juvenile *community* correctional center, any drug which is a
 646 controlled substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1
 647 or marijuana is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or
 648 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,
 649 ammunition, or explosives of any nature is guilty of a Class 3 felony.

650 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

651 **§ 18.2-477.2. Punishment for certain offenses committed within a secure juvenile facility or
 652 detention home.**

653 It shall be unlawful for a person committed to the Department of Juvenile Justice in any juvenile
 654 *community* correctional center or detained in a secure juvenile facility or detention home to commit any
 655 of the offenses enumerated in § 53.1-203. A violation of this section shall be punishable as a Class 6
 656 felony, except that a violation of subdivision 6 of § 53.1-203 is a Class 5 felony.

657 **§ 22.1-209.1:2. Regional alternative education programs for certain students.**

658 A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a
 659 program consisting of regional alternative education options for elementary, middle, and high school
 660 students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in
 661 violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another
 662 person, or against whom a petition or warrant has been filed alleging such acts or school board charges
 663 alleging such policy violations are pending; (ii) have been expelled from school attendance or have
 664 received one suspension for an entire semester, or have received two or more long-term suspensions
 665 within one school year; or (iii) have been released from a juvenile *community* correctional center and
 666 have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education
 667 and the relevant division superintendent as requiring a regional alternative education program. Based on
 668 available space, a student may also be administratively assigned to a regional alternative education
 669 program either at the request of the parent and with the consent of the division superintendent or by the
 670 division superintendent after written notice to the student and his parent. Such notice of the opportunity
 671 for the student and/or his parent to participate in a hearing conducted by the division superintendent or
 672 his designee regarding such placement shall be issued and the assignment shall be final unless altered by
 673 the school board, upon timely written petition, in accordance with regulations of the school board, by

674 the student or his parent, for a review of the record by the school board. However, no child shall be
 675 assigned to any regional alternative education program described in this section for more than one
 676 school year without an annual assessment of the placement to determine the appropriateness of
 677 transitioning the child into the school division's regular program.

678 B. Applications for grants shall include the following components:

679 1. An agreement executed by two or more school divisions and approval of their respective
 680 governing bodies to offer a regional alternative education option as provided in subsection A, and a plan
 681 for the apportionment of responsibilities for the administration, management, and support of the
 682 program, including, but not limited to, the facilities and location for the program, daily operation and
 683 oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and
 684 the program of instruction.

685 2. A procedure for obtaining the participation in or support for the program, as may be determined,
 686 of the parents, guardian or other person having charge or control of a child placed in the program.

687 3. An interagency agreement for cooperation executed by the local departments of health and social
 688 services or welfare; the juvenile and domestic relations district court; law-enforcement agencies;
 689 institutions of higher education and other postsecondary training programs; professional and community
 690 organizations; the business and religious communities; dropout prevention and substance abuse
 691 prevention programs; community services boards located in the applicants' respective jurisdictions; and
 692 the Department of Juvenile Justice.

693 4. A curriculum developed for intensive, accelerated instruction designed to establish high standards
 694 and academic achievement for participating students.

695 5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

696 6. A low pupil/teacher ratio to promote a high level of interaction between the students and the
 697 teacher.

698 7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling;
 699 organized, age-appropriate, developmental education for elementary and middle school children; and
 700 opportunities that enhance acculturation and permit students to improve their social and interpersonal
 701 relationship skills.

702 8. Community outreach to build strong school, business, and community partnerships, and to promote
 703 parental involvement in the educational process of participating children.

704 9. Specific, measurable goals and objectives and an evaluation component to determine the program's
 705 effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth
 706 committed to juvenile *community* correctional centers, and recidivism; and in increasing the academic
 707 achievement levels and rehabilitative success of participating students, admission to institutions of higher
 708 education and other postsecondary education and training programs, and improving staff retention rates.

709 10. The number of children who may be assigned to the regional alternative education program
 710 during the school year.

711 11. A plan for transitioning the enrolled students into the relevant school division's regular program.

712 12. A current program of staff development and training.

713 C. Beginning with the first year of program implementation, the Department of Education shall be
 714 entitled to deduct annually from the locality's share for the education of its students a sum equal to the
 715 actual local expenditure per pupil for the support of those students placed by the relevant school division
 716 in any such program. The amount of the actual transfers shall be based on data accumulated during the
 717 prior school year.

718 D. A school board shall require written notification to the pupil's parent, guardian, or other person
 719 having charge or control, when a pupil commits an offense in violation of school board policies, which
 720 school officials determine was committed without the willful intent to violate such policies, or when the
 721 offense did not endanger the health and safety of the individual or other persons, of the nature of the
 722 offense no later than two school days following its occurrence. A school board shall require the
 723 principal of the school where the child is in attendance or other appropriate school personnel to develop
 724 appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

725 E. For the purposes of this section, "regional alternative education program" means a program
 726 supported and implemented by two or more school divisions which are either geographically contiguous
 727 or have a community of interest.

728 F. For the purposes of this section, "one school year" means no more than 180 teaching days.

729 **§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court**
 730 **notices; penalty.**

731 A. As used in this section:

732 "Scholastic record" means those records that are directly related to a student and are maintained by
 733 an educational agency or institution or by a party acting for the agency or institution. These include, but
 734 are not limited to, documentation pertinent to the educational growth and development of students as
 735 they progress through school, student disciplinary records, achievement and test data, cumulative health

736 records, reports of assessments for eligibility for special education services, and Individualized Education
 737 Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print,
 738 computer media, video or audio tape, film, microfilm, and microfiche.

739 A notice of adjudication or conviction received by a superintendent relating to an incident which did
 740 not occur on school property or during a school-sponsored activity shall not be a part of a student's
 741 scholastic record.

742 The term "scholastic record" also shall not include records of instructional, supervisory,
 743 administrative, and ancillary educational personnel that are kept in the sole possession of the maker of
 744 the record and are not accessible or revealed to any other person except a temporary substitute for the
 745 maker of the record.

746 B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of
 747 the scholastic record shall be transferred to the school division to which the pupil transfers upon request
 748 from such school division. Permission of the parent, guardian, or other person having control or charge
 749 of the student shall not be required for transfer of such scholastic record to another school or school
 750 division within or outside the Commonwealth.

751 C. Any notice of disposition received pursuant to § 16.1-305.1 shall not be retained after the student
 752 has been awarded a diploma or a certificate as provided in § 22.1-253.13:4.

753 D. Every student's scholastic record shall be available to the student and his parent, guardian, or
 754 other person having control or charge of the student for inspection during the regular school day.
 755 Permission of the parent, guardian, or other person having control or charge of the student, or of a
 756 student who is 18 years of age or older, shall not be required for transfer of such scholastic record to
 757 another school or school division within or without this Commonwealth.

758 Consistent with federal law and regulation, each school shall annually notify parents of students
 759 currently enrolled and in attendance of their rights under the federal Family Educational Rights and
 760 Privacy Act (20 U.S.C. § 1232g) and related regulations.

761 A school responding to a request for the transfer of the scholastic record from another school
 762 division need not provide written notice of the transfer of the record, including the identity of the
 763 requester, to the parent, guardian, or other person having control or charge of the student, or to a student
 764 who is 18 years of age or older, if the school has previously included in the annual notice required by
 765 this subsection a statement that it forwards such records to such requesting school divisions.

766 E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant
 767 to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a
 768 detention center, that a pupil who last attended a school within the school division is a pupil in a school
 769 of a juvenile *community* correctional center of the Department of Juvenile Justice, or a pupil in an
 770 educational program in a local jail or detention center, the school division superintendent or his designee
 771 shall transfer the scholastic record of such pupil to the designated juvenile *community* correctional center
 772 or local jail or a detention center, as the case may be, within five work days. The Department of
 773 Juvenile Justice shall transfer the scholastic record of a student who has been discharged from a juvenile
 774 *community* correctional center to the relevant school division within five work days of the student's
 775 discharge.

776 The Board of Education shall adopt regulations concerning the transfer and management of scholastic
 777 records from one school division to another, to the learning centers of the Department of Juvenile
 778 Justice, and to educational programs in local jails and detention centers.

779 Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending
 780 school division and the receiving school division, as such school divisions are defined in subsection D
 781 of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

782 F. The division superintendent or his designee shall notify the local police or sheriff's department for
 783 investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to
 784 obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that
 785 the pupil is a missing child.

786 G. Superintendents and their designees shall be immune from any civil or criminal liability in
 787 connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or
 788 failure to give such notice as required by this section.

789 H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee,
 790 or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall
 791 be guilty of a Class 3 misdemeanor.

792 **§ 29.1-317. Special fishing permits for certain juveniles.**

793 A. Upon application from the superintendent of any juvenile *community* correctional center
 794 maintained and operated by the Department of Juvenile Justice, the Director may issue a permit to allow
 795 the residents of such juvenile *community* correctional center to fish under supervision without licenses in
 796 public waters open to fishing. The permits shall not be issued for use in designated waters stocked with

797 trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318.

798 B. The application for the permit shall state the name and description of the group, the period of
799 time during which it will be used, the general area in which it will be used, and the name of the person
800 who will be responsible for the group.

801 **§ 51.1-212. Definitions.**

802 As used in this chapter, unless the context requires a different meaning:

803 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
804 campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of
805 Title 23.1, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed
806 under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia
807 Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of
808 Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as
809 described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including
810 correctional officers employed at a juvenile *community* correction facility as the term is defined in
811 § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle
812 enforcement officer employed by the Department of State Police.

813 "Member" means any person included in the membership of the Retirement System as provided in
814 this chapter.

815 "Normal retirement date" means a member's sixtieth birthday.

816 "Retirement System" means the Virginia Law Officers' Retirement System.

817 **§ 66-3. Powers of the Director.**

818 A. The Director of the Department shall have the following general powers:

819 1. To employ such personnel as may be required to carry out the purposes of this title.

820 2. To make and enter into all contracts and agreements necessary or incidental to the performance of
821 his duties and the execution of his powers under this title, including, but not limited to, contracts and
822 agreements with the United States, other states, and agencies and governmental subdivisions of the
823 Commonwealth.

824 3. With the prior approval of the Governor, to enter into agreements with a public or private entity
825 to operate a work program for children committed to the Department.

826 4. With the prior approval of the Governor, to acquire real property, by purchase or gift, needed for
827 new or existing state juvenile *community* correctional facilities and for administrative and other facilities
828 necessary to the operations of the Department, pursuant to regulations promulgated by the Board to
829 ensure adequate public notice and local hearing.

830 5. To establish and maintain schools of the appropriate grades, levels, and types in the institutions for
831 persons committed to juvenile *community* correctional centers.

832 6. To enter into such agreements with private entities, nonprofit civic organizations, school divisions,
833 and public and private two-year and four-year institutions of higher education as it may deem necessary
834 to provide age-appropriate educational programs and training, including career and technical education;
835 career development opportunities; public service projects; restricted Internet access to online courses of
836 institutions of higher education and approved or accredited online secondary education or adult
837 education and literacy programs leading to a diploma or achieving a passing score on a high school
838 equivalency examination approved by the Board of Education; access to postsecondary education that
839 includes college credit, certification through an accredited vocational training program, or other
840 accredited continuing education program using videoconferencing technology; and other learning
841 experiences in the furtherance of its duties and responsibilities under this chapter for persons committed
842 to the institutions comprising the Department.

843 7. To designate employees of the Department with internal investigations authority to have the same
844 power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior
845 affecting the operations of the Department. Such employees shall be subject to any minimum training
846 standards established by the Department of Criminal Justice Services under § 9.1-102 for
847 law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision.
848 Nothing in this section shall be construed to grant the Department any authority over the operation and
849 security of detention homes not specified in any other provision of law. The Department shall
850 investigate allegations of criminal behavior in accordance with a written agreement entered into with the
851 Department of State Police. The Department shall not investigate any action falling within the authority
852 vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title
853 2.2 unless specifically authorized by the Office of the State Inspector General.

854 8. To do all acts necessary or convenient to carry out the purposes of this title.

855 B. The Director shall comply with and require all school facilities within the Department to comply
856 with applicable regulations and statutes, both state and federal.

857 **§ 66-10. Powers and duties of Board.**

858 The Board shall have the following powers and duties:

859 1. To establish and monitor policies for the programs and facilities for which the Department is
860 responsible under this law.

861 2. To ensure the development of a long-range youth services policy.

862 3. To monitor the activities of the Department and its effectiveness in implementing the policies
863 developed by the Board.

864 4. To advise the Governor and Director on matters relating to youth services.

865 5. To promulgate such regulations as may be necessary to carry out the provisions of this title and
866 other laws of the Commonwealth.

867 6. To ensure the development of programs to educate citizens and elicit public support for the
868 activities of the Department.

869 7. To establish length-of-stay guidelines for juveniles indeterminately committed to the Department
870 and to make such guidelines available for public comment.

871 8. To adopt all necessary regulations for the management and operation of the schools in the
872 Department except that the regulations adopted hereunder shall not conflict with regulations relating to
873 security of the institutions in which the juveniles are committed.

874 9. To establish compulsory minimum entry-level, in-service, and advanced training standards, as well
875 as the time required for completion of such training, for persons employed as juvenile correctional
876 officers employed at a juvenile *community* correctional facility as defined in § 66-25.3.

877 **§ 66-13. Authority of Department as to juveniles committed to it; establishment of facilities;**
878 **arrangements for temporary care.**

879 A. The Department is authorized and empowered to receive juveniles committed to it by the courts
880 of the Commonwealth. The Department shall establish, staff and maintain facilities for the rehabilitation,
881 education, training and confinement of such juveniles. The Department may make arrangements with
882 satisfactory persons, institutions or agencies, or with cities or counties maintaining places of detention
883 for juveniles, for the temporary care of such juveniles. *Any juvenile community correctional center*
884 *established after July 1, 2020, shall (i) be located within a locality in which at least five percent of all*
885 *juvenile commitments occur statewide, using an average of the rate of commitments of the three most*
886 *recent consecutive years, and (ii) be designed to confine 30 juveniles or fewer.*

887 B. In accordance with the Juvenile Corrections Private Management Act, Chapter 2.1 (§ 66-25.3 et
888 seq.), the Department may establish, or contract with private entities, political subdivisions or
889 commissions to establish, juvenile boot camps. The Board shall prescribe standards for the development,
890 implementation and operation of the boot camps with highly structured components including, but not
891 limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less
892 than six months of intensive aftercare. The Department of Juvenile Justice's Division of Education shall
893 establish, staff, and maintain educational programs for such juveniles in accordance with § 66-13. A
894 contract to expend state funds to establish a facility for a juvenile boot camp shall not be executed by
895 the Department unless an appropriation has been expressly approved as is otherwise provided by law.

896 C. The Department may by mutual agreement with a locality or localities and, pursuant to standards
897 promulgated pursuant to § 16.1-309.9, establish detention homes for use by a locality or localities for
898 pre-trial and post-dispositional detention pursuant to §§ 16.1-248.1 and 16.1-284.1. The Department may
899 collect by mutual agreement with a locality or localities and from any locality of this Commonwealth
900 from which a juvenile is placed in such a detention home, the reasonable cost of maintaining such
901 juvenile in such facility and a portion of the cost of construction of such facility. Such agreements shall
902 be subject to approval by the General Assembly in the general appropriation act.

903 D. The Department shall collect data pertaining to the demographic characteristics of juveniles
904 incarcerated in state juvenile correctional institutions, including, but not limited to, the race or ethnicity,
905 age, and gender of such persons, and the types of and extent to which health-related problems are
906 prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly,
907 and reported by the Director to the Governor and the General Assembly at each regular session of the
908 General Assembly thereafter.

909 **§ 66-13.1. Division of Education; employment of Superintendent; powers and duties.**

910 A. To assist in the performance of the duties imposed by § 66-13 the Department shall develop and
911 maintain a Division of Education (Division), which shall be composed of all the educational facilities of
912 all institutions operated by the Department. The Division shall be designated as a local education agency
913 (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.

914 B. The Department shall employ a Superintendent of the Division, who shall meet the minimum
915 standards for division superintendents set by the Board of Education. The Superintendent shall supervise
916 the administration of the Division. The Department shall employ teachers and place them in appropriate
917 schools. Other powers and duties of the Superintendent shall be fixed by the Board of Education in
918 accordance with law.

919 C. When the Department employs a teacher licensed by the Board of Education to provide

920 instruction in the schools of the juvenile *community* correctional centers, the Department of Human
 921 Resource Management shall establish salary schedules for the teachers which endeavor to be competitive
 922 with those in effect for the school division in which the *community* correctional center is located.

923 **§ 66-18. Examination and placing of such children.**

924 The Department shall make a careful physical and mental examination of every child committed to it
 925 by the courts, investigate the personal and family history of the child and his environment, and place
 926 such children at ~~such facilities as are available~~ *the juvenile community correctional center located closest*
 927 *to their primary residence and within one hour of such residence via motor vehicle and within one and*
 928 *one-half hours of such residence via public transportation. If such placement is not available, the*
 929 *Department shall use an alternative placement that is closest to the juvenile's primary residence, such as*
 930 *a local juvenile detention center.* Any children committed to the Department and afterwards found to be
 931 eligible for commitment by proper proceedings to any state hospital or admission to a training center for
 932 individuals with intellectual disability shall take precedence as to admission over all others and shall in
 933 all cases be received into the state hospital or training center within 45 days.

934 **§ 66-22.1. Establishment of stores in juvenile community correctional facilities.**

935 The Director is hereby authorized to provide for the establishment and operation of stores or
 936 commissaries in state juvenile *community* correctional facilities to deal in such articles as he deems
 937 proper. The profits from the operation of such stores shall be used for educational, recreational, or other
 938 purposes beneficial to the juveniles committed to the Department as may be prescribed by the Director.

939 **§ 66-25.1:1. Juvenile academic and career training.**

940 The Director or his designee shall assess, in accordance with criteria established pursuant to
 941 § 66-25.1:3, whether a juvenile committed to the Department is an appropriate candidate for participation
 942 in a work release program, apprenticeship program, job enterprise program, or any other work
 943 experience opportunity located at or through the juvenile *community* correctional center where the
 944 juvenile is placed.

945 **§ 66-25.1:3. Extending limits of confinement of state wards for work and educational programs;**
 946 **disposition of wages; penalties for violations.**

947 A. The Director is authorized to establish work release programs, subject to such rules and
 948 regulations as the Board may prescribe, whereby (i) a juvenile who is proficient in any trade or
 949 occupation and who meets the work release criteria established by the Director, may be approved for
 950 employment by private individuals, corporations, or state agencies at places of business, or (ii) a juvenile
 951 who the Director is satisfied meets the work release criteria and is capable of receiving substantial
 952 benefit from educational and other related community activity programs that are not available within a
 953 juvenile *community* correctional center may attend such programs outside of the juvenile *community*
 954 correctional facility.

955 B. The Director may contract with the superintendent of a local detention facility or home for the
 956 temporary placement of a committed juvenile who is deemed appropriate for participation in the
 957 programs or services provided by or through a certified post-dispositional program in that local detention
 958 facility or home. A juvenile who the Director is satisfied meets the work release criteria and is capable
 959 of receiving substantial benefit from educational programs, employment or other related community
 960 activity programs available at or through the local detention facility or home is eligible for placement in
 961 such local detention facility or home.

962 C. The compensation for such employment shall be arranged by the Director and shall be the same
 963 as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The
 964 Director shall, in accordance with regulations promulgated by the Board, deduct from such wages, in the
 965 following order of priority, an amount to:

966 1. Meet the obligation of any judicial or administrative order to provide support, and such funds shall
 967 be disbursed according to the terms of such order;

968 2. Pay any fines, restitution, or costs as ordered by the court; and

969 3. Pay travel and other such expenses made necessary by his work release employment or
 970 participation in an educational or rehabilitative program.

971 The balance shall be credited to the juvenile's account or sent to his family in an amount the juvenile
 972 chooses.

973 D. Any juvenile who has been placed in any of the programs authorized herein shall, while outside
 974 the juvenile *community* correctional center or juvenile detention facility to which he is assigned, be
 975 deemed to be in custody whether or not he is under the supervision of a juvenile correctional officer. If
 976 the juvenile, without proper authority or without just cause, leaves the area in which he has been
 977 directed to work or to attend educational or community activity programs, or the vehicle or route
 978 involved in his traveling to or from such place or program, he may be found guilty of escape as
 979 provided for in § 18.2-477 as though he had left the secure facility as defined in § 16.1-228; or, if there
 980 are mitigating circumstances or the culpability of the juvenile is minimal, he may be found guilty of a
 981 Class 2 misdemeanor.

982 E. The Director and any superintendent or other administrative head of any local detention facility
 983 are authorized to enter into agreements whereby persons committed to the Department, whether such
 984 persons are housed in a juvenile *community* correctional center or a local detention facility, and who
 985 meet the Department's standards for such release, may participate in local work release programs or in
 986 educational or other rehabilitative programs operating pursuant to this section. Any person so placed
 987 shall be governed by the rules and regulations applicable to local work release programs.

988 F. In the event that the juvenile is committed to the Department as a serious offender pursuant to
 989 § 16.1-285.1, the juvenile shall not be approved for placement in a work release program located outside
 990 of the juvenile *community* correctional facility without written approval of the committing court.

991 **§ 66-25.2:1. Director; notice to school superintendent prior to release of certain offenders.**

992 The Director or designee shall notify the school division superintendent in the jurisdiction in which
 993 the juvenile will be enrolled upon release from a juvenile *community* correctional center if the Director
 994 reasonably believes that the juvenile poses any credible danger of serious bodily injury or death to one
 995 or more students, school personnel, or others on school property. Such information shall include the
 996 nature of the danger. The information provided to a school division superintendent pursuant to this
 997 section may be disclosed only as provided in § 16.1-305.2.

998 **§ 66-25.3. Definitions.**

999 As used in this chapter unless the context requires otherwise or it is otherwise provided:

1000 "Correctional services" means the following functions, services and activities when provided within a
 1001 juvenile correctional facility or otherwise:

- 1002 1. Operation of facilities, including management, custody of juveniles and provision of security;
- 1003 2. Food services, commissary, medical services, transportation, sanitation or other ancillary services;
- 1004 3. Development and implementation assistance for classification, management information systems or
 1005 other information systems or services;
- 1006 4. Education, training and employment programs;
- 1007 5. Recreational, religious and other activities; and
- 1008 6. Counseling, special treatment programs, or other programs for special needs.

1009 "Juvenile *community* correction facility" or "center" or "facility" means any institution operated by or
 1010 under the authority of the Department and shall include, whether obtained by purchase, lease,
 1011 lease/purchase, construction, reconstruction, restoration, improvement, alteration, repair or other means,
 1012 any physical betterment or improvement related to the housing of juveniles or any preliminary plans,
 1013 studies or surveys relative thereto; land or rights to land; and any furnishings, machines, vehicles,
 1014 apparatus, or equipment for use in connection with any juvenile correctional facility.

1015 "Contractor" means any entity entering into or offering or proposing to enter into a contractual
 1016 agreement to provide any juvenile correctional facility for or correctional services to juveniles under the
 1017 custody of the Commonwealth.

1018 **§ 66-25.4. State juvenile community correctional facilities; private contracts.**

1019 The Director, subject to any applicable regulations which may be promulgated by the Board pursuant
 1020 to § 66-10, is hereby authorized to enter into contracts for the financing, site selection, design,
 1021 acquisition, construction, maintenance, leasing, leasing/purchasing, management or operation of juvenile
 1022 *community* correctional facilities or any combination of those services subject to the requirements and
 1023 limitations set out below.

1024 1. Contracts entered into under the terms of this chapter shall be with an entity submitting an
 1025 acceptable response pursuant to a request for proposals. An acceptable response shall be one which
 1026 meets all the requirements in the request for proposals. However, no contract for juvenile *community*
 1027 correctional facilities or correctional services may be entered into unless the private contractor
 1028 demonstrates to the satisfaction of the Director that it has:

- 1029 a. The qualifications, experience and management personnel necessary to carry out the terms of this
 1030 contract;
- 1031 b. The financial resources to provide indemnification for liability arising from the management of
 1032 juvenile correctional projects;
- 1033 c. Evidence of past performance of similar contracts; and
- 1034 d. The ability to comply with all applicable federal and state constitutional standards; federal, state,
 1035 and local laws; court orders; and juvenile correctional standards.

1036 2. Contracts awarded under the provisions of this chapter, including contracts for the provision of
 1037 juvenile correctional services, the construction of juvenile *community* correctional facilities, or for the
 1038 lease, lease/purchase or use of public or private lands or buildings for use in the operation of facilities,
 1039 may be entered into for a period of up to 30 years, subject to the requirements for annual appropriation
 1040 of funds by the Commonwealth.

1041 3. Contracts awarded under the provisions of this chapter shall, at a minimum, comply with the
 1042 following:

- 1043 a. Provide for appropriate security to protect the public, employees and committed juveniles;
- 1044 b. Provide juveniles with work or training opportunities while incarcerated; however, the contractor
- 1045 shall not benefit financially from the labor of committed juveniles;
- 1046 c. Impose discipline on committed juveniles only in accordance with applicable regulations; and
- 1047 d. Provide proper food, clothing, housing and medical care for juveniles.
- 1048 4. No contract for juvenile *community* correctional facilities or juvenile correctional services shall be
- 1049 entered into unless the following requirements are met:
- 1050 a. The contractor provides audited financial statements for the previous five years or for each of the
- 1051 years the contractor has been in operation, if fewer than five years, and provides other financial
- 1052 information as requested; and
- 1053 b. The contractor provides an adequate plan of indemnification, specifically including indemnity for
- 1054 civil rights claims. The indemnification plan shall be adequate to protect the Commonwealth and public
- 1055 officials from all claims and losses incurred as a result of the contract. Nothing herein is intended to
- 1056 deprive a contractor or the Commonwealth of the benefits of any law limiting exposure to liability or
- 1057 setting a limit on damages.
- 1058 5. No contract for juvenile *community* correctional facilities or correctional services shall be executed
- 1059 by the Director nor shall any funds be expended for the contract unless:
- 1060 a. The proposed contract complies with any applicable regulations which may be promulgated by the
- 1061 Board pursuant to § 66-10;
- 1062 b. An appropriation for the facilities or the services to be provided under the contract has been
- 1063 expressly approved as is otherwise provided by law;
- 1064 c. The juvenile *community* correctional facilities or the correctional services proposed by the contract
- 1065 are of at least the same quality as those routinely provided by the Department to similar types of
- 1066 committed juveniles;
- 1067 d. An evaluation of the proposed contract demonstrates a cost benefit to the Commonwealth when
- 1068 compared to alternative means of providing the facilities or the services through governmental agencies;
- 1069 e. If a contract for acquiring facilities requires or otherwise contemplates that the Commonwealth,
- 1070 whether subject to appropriation or not, will make payments beyond the current biennium that are
- 1071 expected to pay debt service on any bonds or other obligations issued to finance such facilities,
- 1072 regardless of the issuer thereof, then (i) the Treasury Board shall approve the terms and structure of
- 1073 such bonds or other obligations and (ii) the appropriation for such facilities acknowledges that payments
- 1074 for the acquisition of such facilities are expected to be made beyond the current biennium under a
- 1075 capital lease, lease/purchase, or similar arrangement. Any contract that is for two years or less, or is
- 1076 cancelable by the Commonwealth without cause after such a period, shall not be deemed a contract as
- 1077 described herein; and
- 1078 f. Nothing herein shall be construed to constitute a waiver for the Department or contractor from
- 1079 complying with the provisions of subdivision 4 of § 66-3.
- 1080 **§ 66-25.6. Board shall promulgate regulations; local school board exemption.**
- 1081 A. The Board shall make, adopt and promulgate regulations governing the following aspects of
- 1082 private management and operation of juvenile *community* correctional facilities:
- 1083 1. Contingency plans for state operation of a contractor-operated facility in the event of a termination
- 1084 of the contract;
- 1085 2. Use of physical force and mechanical restraint by the contractors' security personnel;
- 1086 3. Methods of monitoring a contractor-operated facility by the Department or the Board;
- 1087 4. Public access to a contractor-operated facility; and
- 1088 5. Such other regulations as may be necessary to carry out the provisions of this chapter.
- 1089 B. Nothing in this chapter shall be construed to require local school boards to provide educational
- 1090 services to juveniles while committed to a state juvenile *community* correctional facility.
- 1091 **§ 66-25.7. Fixed-price or not-to-exceed-price design-build-operate and related contracts**
- 1092 **authorized.**
- 1093 Notwithstanding any other provisions of law to the contrary, but in accordance with the procedures
- 1094 consistent with those described in the Virginia Public Procurement Act (§ 2.2-4300 et seq.) for
- 1095 procurement of nonprofessional services through competitive negotiation, the Director may enter into
- 1096 design-build-operate contracts for juvenile *community* correctional facilities on a fixed-price or
- 1097 not-to-exceed-price basis, including related leases, lease/purchase contracts, agreements relating to the
- 1098 sale of securities to finance such facilities, and similar financing agreements and agreements for
- 1099 correctional services. For the purposes of this section, "design-build-operate contract" means a contract
- 1100 between the Commonwealth and another party in which the party contracting with the Commonwealth
- 1101 agrees to (i) design, build and operate the juvenile *community* correctional facility or (ii) design and
- 1102 build the juvenile *community* correctional facility where the facility is to be operated by a third party.
- 1103 The Director shall maintain adequate records to allow post-project evaluation.