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INTRODUCED

HB2039

1 **HOUSE BILL NO. 2039**

2 Offered January 11, 2023

3 Prefiled January 10, 2023

4 A *BILL to amend and reenact §§ 53.1-115.2, 53.1-127.1, 53.1-127.2, 53.1-131, and 53.1-131.1 of the*
5 *Code of Virginia; to amend the Code of Virginia by adding in Article 6 of Chapter 3 of Title 53.1 a*
6 *section numbered 53.1-127.6; and to repeal §§ 53.1-127.3, 53.1-127.5, and 53.1-131.3 of the Code of*
7 *Virginia, relating to local correctional facilities; fees; report.*

8 Patron—Shin

9 Referred to Committee on Public Safety

10 **Be it enacted by the General Assembly of Virginia:**11 1. That §§ 53.1-115.2, 53.1-127.1, 53.1-127.2, 53.1-131, and 53.1-131.1 of the Code of Virginia are
12 amended and reenacted and that the Code of Virginia is amended by adding in Article 6 of
13 Chapter 3 of Title 53.1 a section numbered 53.1-127.6 as follows:14 **§ 53.1-115.2. Establishment of stores in regional jails and regional jail farms.**15 The superintendent of a regional jail or regional jail farm may, with the approval of the governing
16 regional jail or jail farm board or jail authority, provide for the establishment and operation of stores or
17 commissaries in regional jail or regional jail farm facilities to deal in such articles as he deems proper.
18 The net profits from the operation of such stores shall be used within each facility respectively for
19 educational, or recreational, or other beneficial purposes as may be prescribed by the superintendent.
20 *Items or services sold by such stores or commissaries, including the sale or rental of electronic devices*
21 *or media, may be priced at a maximum of 10 percent above the typical market rate for such items or*
22 *services at noncorrectional major retail stores. The facility or superintendent's office shall not receive*
23 *any commissions or markups from any items or services sold.*24 **§ 53.1-127.1. Establishment of stores in local correctional facilities.**25 A. Each sheriff who operates a correctional facility is authorized to provide for the establishment and
26 operation of a store or commissary to deal in such articles and services as he deems proper. The net
27 profits from the operation of such store that are generated from the inmates' accounts shall be used
28 within the facility for educational, or recreational or other purposes for the benefit of the inmates as
29 may be prescribed by the sheriff. Any other profits may be used for the general operation of the sheriff's
30 office. *Items or services sold by such stores or commissaries, including the sale or rental of electronic*
31 *devices or media, may be priced at a maximum of 10 percent above the typical market rate for such*
32 *items or services at noncorrectional major retail stores. The facility or sheriff's office shall not receive*
33 *any commissions or markups from any items or services sold.*34 B. Fees charged for the receipt of funds to any inmate's account shall not exceed three percent of
35 the amount received.36 C. Upon discharge from a local correctional facility, inmates shall receive the balance of all
37 accounts maintained by the facility for an inmate's use. The inmate shall be given the option to receive
38 the balance by check, electronic funds transfer, or a debit or other account card. No fees shall be
39 charged by the facility or a vendor contracted by the facility to transfer funds, check account balances,
40 or maintain or close an account.41 D. The sheriff shall be the purchasing agent in all matters involving the commissary and
42 nonappropriated funds received from inmates. The funds from such operation of a store or commissary
43 and from the inmate telephone services account shall be considered public funds.44 **§ 53.1-127.2. Fees for electronic visitation and messaging with prisoners in local correctional**
45 **facilities.**46 Each sheriff or jail superintendent who operates a correctional facility that utilizes an electronic
47 visitation system or electronic messaging system, including Voice-over-Internet Protocol technology and
48 web-based communication systems, for communication between prisoners and third parties is authorized
49 to provide for the establishment and collection of a fee for the system utilized. *However, no The fee*
50 *shall not exceed the actual costs of establishing and operating such a system and the proceeds shall not*
51 *be used for any other purpose than to offset the costs of establishing and operating the system. Such*
52 *electronic visitation systems shall be established with the lowest available rates. Any facility that utilizes*
53 *such systems (i) shall establish such system allowing for the security needs of the facility, (ii) shall not*
54 *prohibit in-person visitation, and (iii) shall not exclude any prisoner from its use.*55 No fee shall be charged for communication between prisoners and third parties within any local
56 correctional facility or appurtenance thereto operated or controlled by the sheriff or jail superintendent.

59 This section does not apply to telephonic communication systems or to electronic video and audio
60 communication systems used in judicial proceedings.

61 **§ 53.1-127.6. Telephone systems within local correctional facilities.**

62 Local correctional facilities shall offer telephone systems that allow telephone calls to be placed to
63 the telephone number or numbers on an approved call list. Telephone services shall be provided at no
64 cost to the inmate or to any recipient of a call from an inmate when such calls are made to or received
65 from a telephone number on an approved call list. The maximum number of telephone numbers
66 permitted on an approved call list shall be no fewer than 20. At least one telephone per every 10
67 inmates shall be available within each housing unit at each local correctional facility. No local
68 correctional facility shall receive any commission from such telephone systems.

69 **§ 53.1-131. Provision for release of prisoner from confinement for employment, educational, or
70 other rehabilitative programs; escape; penalty; disposition of earnings.**

71 A. Any court having jurisdiction for the trial of a person charged with a criminal offense or charged
72 with an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and (i)
73 sentenced to confinement in jail or (ii) being held in jail pending completion of a presentence report
74 pursuant to § 19.2-299, and if it appears to the court that such offender is a suitable candidate for work
75 release, assign the offender to a work release program under the supervision of a probation officer, the
76 sheriff or the administrator of a local or regional jail or a program designated by the court. The court
77 further may authorize the offender to participate in educational or other rehabilitative programs designed
78 to supplement his work release employment. The court shall be notified in writing by the director or
79 administrator of the program to which the offender is assigned of the offender's place of employment
80 and the location of any educational or rehabilitative program in which the offender participates.

81 Any person who has been sentenced to confinement in jail or who has been convicted of a felony
82 but is confined in jail pursuant to § 53.1-20, in the discretion of the sheriff may be assigned by the
83 sheriff to a work release program under the supervision of the sheriff or the administrator of a local or
84 regional jail. The sheriff may further authorize the offender to participate in educational or other
85 rehabilitative programs as defined in this section designed to supplement his work release employment.
86 The court that sentenced the offender shall be notified in writing by the sheriff or the administrator of a
87 local or regional jail of any such assignment and of the offender's place of employment or other
88 rehabilitative program. The court, in its discretion, may thereafter revoke the authority for such an
89 offender to participate in a work release program.

90 The sheriff and the Director may enter into agreements whereby persons who are committed to the
91 Department, whether such persons are housed in a state or local correctional facility, and who have met
92 all standards for such release, may participate in a local work release program or in educational or other
93 rehabilitative programs as defined in this section. The administrator of a regional jail and the Director
94 may also enter into such agreements where such agreements are approved in advance by a majority of
95 the sheriffs on the regional jail board. All persons accepted in accordance with this section shall be
96 governed by all regulations applying to local work release, notwithstanding the provisions of any other
97 section of the Code. Local jails shall qualify for compensation for cost of incarceration of such persons
98 pursuant to § 53.1-20.1, less any payment for room and board collected from the inmate.

99 If an offender who has been assigned to such a program by the court is in violation of the rules of
100 the jail pursuant to § 53.1-117, the sheriff or jail administrator may remove the offender from the work
101 release program, either temporarily or for the duration of the offender's confinement. Upon removing an
102 offender from the work release program, the sheriff or jail administrator shall notify in writing the court
103 that sentenced the offender and indicate the specific violations that led to the decision.

104 Any offender assigned to such a program by the court or sheriff who, without proper authority or
105 just cause, leaves the area to which he has been assigned to work or attend educational or other
106 rehabilitative programs, or leaves the vehicle or route of travel involved in his going to or returning
107 from such place, is guilty of a Class 1 misdemeanor. In the event such offender leaves the
108 Commonwealth, the offender may be found guilty of an escape as provided in § 18.2-477. An offender
109 who is found guilty of a Class 1 misdemeanor in accordance with this section shall be ineligible for
110 further participation in a work release program during his current term of confinement.

111 The Board shall prescribe regulations to govern the work release, educational, and other rehabilitative
112 programs authorized by this section.

113 Any wages earned pursuant to this section by an offender may, upon order of the court, be paid to
114 the director or administrator of the program after standard payroll deductions required by law.
115 Distribution of such wages shall be made for the following purposes:

- 116 1. To pay an amount to defray the cost of his keep;
- 117 2. To pay travel and other such expenses made necessary by his work release employment or
118 participation in an educational or rehabilitative program;
- 119 3. To provide support and maintenance for his dependents or to make payments to the local
120 department of social services or the Commissioner of Social Services, as appropriate, on behalf of

121 dependents who are receiving public assistance or social services as defined in § 63.2-100; or
 122 4. 2. To pay any fines, restitution, or costs as ordered by the court.
 123 Any balance at the end of his sentence shall be paid to the offender upon his release.
 124 B. For the purposes of this section:
 125 "Educational program" means a program of learning recognized by the State Council of Higher
 126 Education, the State Board of Education, the Director, or the State Board of Local and Regional Jails.
 127 "Rehabilitative program" includes an alcohol and drug treatment program, mental health program,
 128 family counseling, community service or other community program approved by the court having
 129 jurisdiction over the offender.
 130 "Sheriff" means the sheriff of the jurisdiction where the person charged with the criminal offense was
 131 convicted and sentenced, provided that the sheriff may designate a deputy sheriff or regional jail
 132 administrator to assign offenders to work release programs under this section.
 133 "Work release" means full-time employment or participation in suitable career and technical
 134 education programs.

§ 53.1-131.1. Provision for sentencing of person to nonconsecutive days in jail; penalty.
 135 Any court having jurisdiction for the trial of a person charged with a misdemeanor, traffic offense,
 136 any offense under Chapter 5 (§ 20-61 et seq.) of Title 20, or a felony that is not an act of violence as
 137 defined in § 19.2-297.1 may, for good cause, if the defendant is convicted and sentenced to confinement
 138 in jail and the active portion of the sentence remaining to be served is 45 days or less, impose the
 139 remaining time to be served on weekends or nonconsecutive days to permit the convicted defendant to
 140 retain gainful employment; however, the court shall not impose weekends or nonconsecutive days for a
 141 person convicted of a felony if the Commonwealth objects. A person sentenced pursuant to this section
 142 shall pay an amount to defray the cost of his keep, which amount shall be the actual cost of
 143 incarceration but shall not exceed that amount charged to the Compensation Board for purposes of
 144 reimbursement as provided in the general appropriation act. Such amount shall be collected by the
 145 sheriff, if he is responsible for operating a jail, or by the regional jail superintendent, and remitted by
 146 the sheriff to the treasurer of the appropriate county or city, or by the regional jail superintendent to the
 147 regional jail board or authority, solely for the purposes of defraying the costs of such weekend or
 148 nonconsecutive incarceration. The funds collected pursuant to this section shall not be used for purposes
 149 other than those provided for in this section. The assessment provided for herein shall be in addition to
 150 any other fees prescribed by law. If the defendant willfully fails to report at times specified by the court,
 151 the sentence imposed pursuant to this section shall be revoked and a straight jail sentence imposed.

152 If an offender who has been sentenced to nonconsecutive days by the court is in violation of the
 153 rules of the jail pursuant to § 53.1-117, the sheriff or jail administrator may require the offender to serve
 154 out a portion or the entirety of the remainder of his sentence in consecutive days. Upon revoking the
 155 offender's ability to serve his sentence on nonconsecutive days, the sheriff or jail administrator shall
 156 notify in writing the court that sentenced the offender and indicate the specific violations that led to the
 157 decision.

158 The time served by a person sentenced for violation of state law in a local jail, regional jail, or local
 159 jail farm pursuant to this section shall be included in the count of prisoner days reported by the
 160 Department for the purpose of apportioning state funds to local correctional facilities for operating costs
 161 in accordance with § 53.1-84.

162 **2. That §§ 53.1-127.3, 53.1-127.5, and 53.1-131.3 of the Code of Virginia are repealed.**