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SENATE BILL NO. 441

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 53.1-1.1, 53.1-27, 53.1-28, 53.1-35.1, and 53.1-43.1 of the Code of Virginia, relating to state correctional facilities; fees.

Patron—Boysko

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-1.1, 53.1-27, 53.1-28, 53.1-35.1, and 53.1-43.1 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-1.1. Telephone systems within correctional facilities.

The Department of Corrections shall offer debit or prepaid telephone systems, in addition to any existing collect calling systems, which allow telephone calls to be placed to the telephone number or numbers on an approved call list. Such telephone systems may be established with the lowest available rates. Telephone services shall be provided at no cost to the inmate or to any recipient of a call from an inmate. The maximum number of telephone numbers permitted on an approved call list shall be no less than 20. A minimum ratio of one telephone per every 15 inmates shall be available within each housing unit at each correctional facility. Neither the Department nor any correctional facility shall receive any commission from such telephone systems.

§ 53.1-27. Establishment of stores in state correctional facilities.

The Director is hereby authorized to provide for the establishment and operation of stores or commissaries in state correctional facilities to deal in such articles as he deems proper. The profits from the operation of such stores shall be used for educational, recreational, or pre-release and post-release reentry and transition services, or other purposes beneficial to the inmate population as may be prescribed by the Director. The cost of items or services sold by such stores or commissaries, including the sale or rental of electronic devices or media, shall not exceed 10 percent of the cost of the typical market rate for such goods and services in major retail stores that are not affiliated with any correctional facility. The Department shall not receive any commissions or markups from the products or services sold.

§ 53.1-28. Authority to fix discharge date; improper release; warrant, arrest, and hearing.

For the purpose of scheduling and providing a uniform, effective, and continual program of pre-release training and conditioning of prisoners, the Director shall have authority to discharge any prisoner within the Virginia penal system on any day within a period of 30 days prior to the date upon which such prisoner's term would normally expire. The Director shall provide, without cost, each prisoner with the following documents upon discharge: (i) verification of the prisoner's work history while in custody; (ii) certification of all educational and treatment programs completed by the prisoner while in custody; and (iii) a complete and comprehensive copy of his medical records, so long as such prisoner requests a copy of his records at least 60 days prior to the date upon which the prisoner's term would expire. The Department shall develop procedures wherein the records are to be made available to the prisoner in a safe and secure manner.

The Director or his designee upon the discovery of an improper release or discharge of a prisoner from custody shall report such release or discharge to the circuit court of the jurisdiction wherein the prisoner was released or discharged. The circuit court shall then issue a warrant for the arrest of the prisoner which may be executed by any duly sworn correctional officer or law-enforcement officer. Such warrant shall direct that the prisoner be presented forthwith to the court to determine the propriety of the original discharge or release. After a hearing, if the court is satisfied that the release or discharge was made improperly, the prisoner shall be returned to the state correctional facility from which he was released or discharged, or to any other correctional facility designated by the Director to serve the remainder of his sentence.

§ 53.1-35.1. Electronic visitation and messaging with inmates; fees.

The Director is authorized to prescribe reasonable rules regarding electronic visitation systems or electronic messaging systems, including Voice-over-Internet Protocol technology and web-based communication systems, for communication between prisoners and third parties and collection of a fee for the system utilized. Any fee shall not exceed the actual costs of establishing and operating such a system. Any state correctional facility that utilizes such systems (i) shall establish such system allowing for the security needs of the facility; Any state correctional facility that utilizes such system, (ii) shall

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59 not prohibit in-person visitation, (iii) *shall not exclude any inmate from its use, and (iv) shall not*
60 *receive any commissions from such service.*

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

63 **§ 53.1-43.1. Inmate trust accounts.**

64 In addition to any other account established to hold funds for inmates, the Department shall establish
65 for each inmate a personal trust account. Unless an inmate ~~has been sentenced to be executed,~~ is serving
66 a sentence of life without the possibility of parole, or is sentenced to a term that makes him ineligible
67 for release, excluding the conditional release of geriatric prisoners pursuant to § 53.1-40.01, prior to 75
68 years of age, 10 percent of any funds received by an inmate from any source shall be deposited by the
69 Department in the inmate's personal trust account until the account has a balance of \$1,000. When the
70 inmate's personal trust account reaches \$1,000, any funds received by the inmate shall be deposited in
71 the inmate's other account. *Fees charged for the receipt of funds by an inmate shall not exceed three*
72 *percent of the amount received. The Department shall not receive any commissions from such fees.*

73 An inmate may direct the Department at any time to deposit a portion or all of any funds received
74 by him in the inmate's personal trust account. After the balance of a personal trust account has exceeded
75 \$1,000, an inmate may direct the Department to transfer funds from his personal trust account to any
76 other account maintained for him, provided, however, that the balance of the personal trust account
77 shall not fall below \$1,000.

78 Funds in an inmate's personal trust account shall be paid to the inmate upon parole or final
79 discharge. *The inmate shall be given an option to receive such funds by a check, an electronic transfer,*
80 *or a debit or other account card. If an inmate receives funds through a debit or other account card by*
81 *the Department or a vendor contracted with the Department, the inmate shall not be charged any fee to*
82 *check account balances, transfer funds, or to close or maintain the account. The Department shall not*
83 *collect any commission for the payment of an inmate's personal trust account funds upon parole or*
84 *discharge.*