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SENATE BILL NO. 1063

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 13, 2017)

(Patrons Prior to Substitute—Senators Deeds and Cosgrove [SB 942])

A *BILL to amend and reenact §§ 32.1-19, 32.1-279, 53.1-2, 53.1-5, and 53.1-127 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 53.1-69.1, relating to State Board of Corrections; membership; powers and duties; review of deaths of inmates in local correctional facilities.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-19, 32.1-279, 53.1-2, 53.1-5, and 53.1-127 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 53.1-69.1 as follows:

§ 32.1-19. Duties prescribed by Board.

A. The Commissioner shall perform such duties as the Board may require, in addition to the duties required by law.

B. The Commissioner shall, along with the Superintendent of Public Instruction, work to combat childhood obesity and other chronic health conditions that affect school-age children.

C. The Commissioner shall ensure, in the licensure of health care facilities, that quality of care, patient safety, and patient privacy are the overriding goals of such licensure and related enforcement efforts.

D. The Commissioner shall coordinate the Department's emergency preparedness and response efforts.

E. The Commissioner shall ensure that prevention of disease and protection of public health remain the Department's overriding goals.

F. The Commissioner shall designate a senior staff member of the Department, who shall be a licensed physician, to oversee minority health efforts of the Department.

G. The Commissioner shall designate a senior official of the Department, who shall be a licensed physician or nurse practitioner, to coordinate all women's health efforts in the Department including, but not limited to, the "Every Woman's Life Program," and other efforts to prevent, detect, and treat breast cancer, cervical cancer, and other diseases that primarily affect women.

H. The Commissioner and the Department shall assist the State Board of Corrections in the conduct of any inmate death review conducted by the State Board of Corrections pursuant to subdivision 5 of § 53.1-5.

§ 32.1-279. Duties of Chief Medical Examiner; teaching legal medicine.

A. The Chief Medical Examiner shall carry out the provisions of this article under the direction of the Commissioner. The Chief Medical Examiner may, with the approval of the Commissioner, employ forensic pathologists to serve as Assistant Chief Medical Examiners in the central and district offices established pursuant to § 32.1-277.

B. The Chief Medical Examiner and Assistant Chief Medical Examiners shall be available to Virginia Commonwealth University, the University of Virginia, the Eastern Virginia Medical School, and other institutions of higher education providing instruction in health science or law for teaching legal medicine and other subjects related to their duties.

C. The Chief Medical Examiner shall assist the State Board of Corrections in the conduct of any inmate death review conducted by the State Board of Corrections pursuant to subdivision 5 of § 53.1-5.

§ 53.1-2. Appointment of members; qualifications; terms and vacancies.

There shall be a State Board of Corrections which shall consist of nine residents of the Commonwealth appointed by the Governor and subject to confirmation by the General Assembly. In making appointments the Governor shall endeavor to select appointees of such qualifications and experience that the membership of the Board shall include persons suitably qualified to consider and act upon the various matters under the Board's jurisdiction. *Members of the Board shall be appointed as follows: (i) one former sheriff or one former warden, superintendent, administrator, or operations manager of a state or local correctional facility; (ii) one individual employed by a public mental health services agency with training in or clinical, managerial, or other relevant experience working with individuals subject to the criminal justice system who have mental illness; (iii) one individual with experience overseeing a correctional facility's or mental health facility's compliance with applicable laws, rules, and regulations; (iv) one physician licensed in the Commonwealth; (v) one individual with experience in administering educational or vocational programs in state or local correctional facilities; (vi) one individual with experience in financial management or performing audit investigations; (vii) one*

60 *citizen member who represents community interests; and (viii) two individuals with experience in*
 61 *conducting criminal, civil, or death investigations.*

62 Members of the Board shall serve at the pleasure of the Governor and shall be appointed for terms
 63 of four years. A vacancy other than by expiration of term shall be filled by the Governor for the
 64 unexpired term.

65 No person shall be eligible to serve more than two full consecutive four-year terms.

66 **§ 53.1-5. Powers and duties of Board.**

67 The Board shall have the following powers and duties:

68 1. To develop and establish operational and fiscal standards governing the operation of local,
 69 regional, and community correctional facilities;

70 2. To advise the Governor and Director on matters relating to corrections;

71 3. To make, adopt and promulgate such rules and regulations as may be necessary to carry out the
 72 provisions of this title and other laws of the Commonwealth pertaining to local, regional, and
 73 community correctional facilities;

74 4. To ensure the development of programs to educate citizens and elicit public support for the
 75 activities of the Department;

76 5. *To develop and implement, in consultation with the State Department of Health and the Office of*
 77 *the Chief Medical Examiner, policies and procedures for the review of the death of any inmate that the*
 78 *Board determines warrants review that occurs in any local, regional, or community correctional facility.*
 79 *Such policies and procedures shall incorporate the Board's authority under § 53.1-6 to ensure the*
 80 *production of evidence necessary to conduct a thorough review of any such death;*

81 6. To establish and promulgate regulations regarding the provision of educational and vocational
 82 programs within the Department; and

83 ~~6.~~ 7. To adopt and promulgate regulations and require the Director and Department to enforce
 84 regulations prohibiting the possession of obscene materials, as defined and described in Article 5
 85 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities.

86 **§ 53.1-69.1. Review of death of inmates in local correctional facilities.**

87 A. *The Board shall have the power to review the death of any inmate who was incarcerated in a*
 88 *local correctional facility at the time of his death in order to determine (i) the circumstances*
 89 *surrounding the inmate's death, including identifying any act or omission by the facility or any employee*
 90 *or agent thereof that may have directly or indirectly contributed to the inmate's death, and (ii) whether*
 91 *the facility was in compliance with the regulations promulgated by the Board.*

92 B. *Any review conducted pursuant to this section shall be (i) performed by Department staff who*
 93 *have been designated by the Board to conduct such review and who shall operate as agents of the*
 94 *Board and (ii) conducted in accordance with the policies and procedures for such review developed and*
 95 *implemented by the Board in accordance with subdivision 5 of § 53.1-5. The Board may request that the*
 96 *State Department of Health and the Office of the Chief Medical Examiner assist in the conduct of any*
 97 *review. In conducting a review pursuant to this section, the Board may exercise its power under*
 98 *§ 53.1-6 to hold and conduct hearings, issue subpoenas, and administer oaths and take testimony*
 99 *thereunder.*

100 C. *Upon completion of any review conducted pursuant to this section, the Department staff*
 101 *conducting the review shall report their findings, including any failure to comply with the Board's*
 102 *regulations, to the Board. The Board may issue any order authorized under § 53.1-69 to correct any*
 103 *failure by the facility to comply with the Board's regulations. Except as otherwise required by law, the*
 104 *Board shall maintain the confidentiality of any confidential records or information obtained from a*
 105 *facility during the course of a review in accordance with state and federal law. The Board shall prepare*
 106 *a detailed report of the findings of any review, which shall be submitted to the Governor, the Speaker of*
 107 *the House of Delegates, and the President pro tempore of the Senate. Such report may contain*
 108 *recommendations for changes to the minimum standards for the construction, equipment, administration,*
 109 *and operation of local correctional facilities in order to prevent problems, abuses, and deficiencies in*
 110 *and improve the effectiveness of such facilities.*

111 **§ 53.1-127. Who may enter interior of local correctional facilities; searches of those entering.**

112 A. Members of the local governing bodies ~~which~~ *that* participate in the funding of a local
 113 correctional facility may go into the interior of that facility. Agents of the Board may go into the
 114 interior of any local correctional facility. In addition, Department of Corrections staff and state and local
 115 health department staff shall, in the performance of their duties, have access to the interior of any local
 116 correctional facility subject to the standards promulgated pursuant to *subsections A and B* of § 53.1-68 ~~A~~
 117 ~~and B~~. Attorneys shall be permitted in the interior of a local correctional facility to confer with prisoners
 118 who are their clients and with prisoners who are witnesses in cases in which they are involved. Except
 119 for the announced or unannounced inspections authorized pursuant to *subsections A and B* of § 53.1-68
 120 ~~A and B~~ or a review conducted pursuant to § 53.1-69.1, the sheriff, jail administrator, or other person in
 121 charge of the facility shall prescribe the time and conditions under which attorneys and other persons

122 may enter the local correctional facility for which he is responsible.
123 B. Any person seeking to enter the interior of any local correctional facility shall be subject to a
124 search of his person and effects. Such search shall be performed in a manner reasonable under the
125 circumstances and may be a condition precedent to entering a local correctional facility.