



HOUSE BILLS

HB 151 Home/electronic incarceration program; deemed to be term of confinement for convicted offender.

[John M. O'Bannon, III](#) | [all patrons](#) ... [notes](#) | [add](#) to my profiles

Summary as introduced:

Assignment to home/electronic incarceration program. Provides that home/electronic incarceration is deemed to be a term of confinement for an offender who has been convicted and sentenced to a term of confinement, and that a court can assign home/electronic incarceration without it being a condition of probation. The bill also provides that good conduct credit may be earned by a prisoner assigned to a home/electronic incarceration program.

Full text:

[01/05/10 House: Prefiled and ordered printed; offered 01/13/10 10100735D pdf | impact statement](#)

Status:

01/05/10 House: Prefiled and ordered printed; offered 01/13/10 10100735D

[01/05/10 House: Referred to Committee on Militia, Police and Public Safety](#)

[01/27/10 House: Assigned MPPS sub: #2](#)

01/28/10 House: Subcommittee recommends laying on the table by voice vote

02/16/10 House: Left in Militia, Police and Public Safety

10100735D

HOUSE BILL NO. 151

Offered January 13, 2010

Prefiled January 5, 2010

A BILL to amend and reenact §§ 53.1-116 and 53.1-131.2 of the Code of Virginia, relating to assignment to home/electronic incarceration program.

Patron—O'Bannon

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-116 and 53.1-131.2 of the Code of Virginia are amended and reenacted as follows:

§ 53.1-116. What records and policy jailer shall keep; how time deducted or added for felons and misdemeanants; payment of fine and costs by person committed to jail until he pays.

A. The jailer shall keep a (i) record describing each person committed to jail, the terms of confinement, for what offense or cause he was committed, and when received into jail; (ii) record of each prisoner; and (iii) written policy stating the criteria for and conditions of earned credit in the facility.

Unless he is serving a mandatory minimum sentence of confinement, each prisoner sentenced to 12 months or less for a misdemeanor or any combination of misdemeanors shall earn good conduct credit at the rate of one day for each one day served, including all days served while confined in jail prior to conviction and sentencing, in which the prisoner has not violated the written rules and regulations of the jail. Prisoners eligible for parole under §§ 53.1-151, 53.1-152 or §-53.1-153 shall earn good conduct credit at a rate of 15 days for each 30 days served with satisfactory conduct.

The jailer may grant the prisoner additional credits for performance of institutional work assignments, participation in classes, or participation in local work force programs, if available at the facility, at the rate of five days for every 30 days served. The time so deducted shall be allowed to each prisoner for such time as he is confined in jail or assigned to a home/electronic incarceration program pursuant to subsection A or C of § 53.1-131.2. It shall be the responsibility of the jailer in each facility to determine the manner in which these additional credits may be awarded and to include this information in the written policy mandated by clause (iii) of this subsection.

For each violation of the rules prescribed herein, the time so deducted shall be added until it equals the full sentence imposed upon the prisoner by the court.

However, any prisoner committed to jail upon a felony offense committed on or after January 1, 1995, shall not earn good conduct credit, sentence credit, earned sentence credit, other credit, or a combination of any credits in excess of that permissible under Article 4 (§ 53.1-202.2 et seq.) of Chapter 6 of this title. So much of an order of any court contrary to the provisions of this section shall be deemed null and void.

B. Notwithstanding the provisions of § 19.2-350, in the event a person who was committed to jail to be therein confined until he pays a fine imposed on him by the court in which he was tried should desire to pay such fine and costs, he may pay the same to the person in charge of the jail. The person receiving such moneys shall execute and deliver an official receipt therefor and shall promptly transmit the amount so paid to the clerk of the court which imposed the fine and costs. Such clerk shall give him an official receipt therefor and shall properly record the receipt of such moneys.

C. The administrator of a local or regional jail shall not assign a person to a home/electronic incarceration program pursuant to subsection C of § 53.1-131.2 in a locality which has a jail operated by a sheriff, without the consent of the sheriff.

§ 53.1-131.2. Assignment to a home/electronic incarceration program; payment to defray costs; escape; penalty.

A. Any court having jurisdiction for the trial of a person charged with a criminal offense, a traffic offense or an offense under Chapter 5 (§ 20-61 et seq.) of Title 20 may, if the defendant is convicted and sentenced to confinement in a state or local correctional facility, and if it appears to the court that such an offender is a suitable candidate for home/electronic incarceration, assign the offender to a home/electronic incarceration program as a condition of probation, if such program exists, under the supervision of the sheriff, the administrator of a local or regional jail, or a Department of Corrections probation and parole district office established pursuant to § 53.1-141. A court may also assign such an offender to home/electronic incarceration without such assignment being a condition of probation. However, any offender who is convicted of any of the following violations of Chapter 4 (§ 18.2-30 et seq.) of Title 18.2 shall not be eligible for participation in the home/electronic incarceration program: (i)

INTRODUCED

HB151

1/27/10 14:59

59 first and second degree murder and voluntary manslaughter under Article 1 (§ 18.2-30 et seq.); (ii)
60 mob-related felonies under Article 2 (§ 18.2-38 et seq.); (iii) any kidnapping or abduction felony under
61 Article 3 (§ 18.2-47 et seq.); (iv) any malicious felonious assault or malicious bodily wounding under
62 Article 4 (§ 18.2-51 et seq.); (v) robbery under § 18.2-58.1; or (vi) any criminal sexual assault
63 punishable as a felony under Article 7 (§ 18.2-61 et seq.). The court may further authorize the offender's
64 participation in work release employment or educational or other rehabilitative programs as defined in
65 § 53.1-131. The court shall be notified in writing by the director or administrator of the program to
66 which the offender is assigned of the offender's place of home/electronic incarceration, place of
67 employment, and the location of any educational or rehabilitative program in which the offender
68 participates.

69 B. In any city or county in which a home/electronic incarceration program established pursuant to
70 this section is available, the court, subject to approval by the sheriff or the jail superintendent of a local
71 or regional jail, may assign the accused to such a program pending trial if it appears to the court that
72 the accused is a suitable candidate for home/electronic incarceration.

73 C. Any person who has been sentenced to jail or convicted and sentenced to confinement in prison
74 but is actually serving his sentence in jail, after notice to the attorney for the Commonwealth of the
75 convicting jurisdiction, may be assigned by the sheriff to a home/electronic incarceration program under
76 the supervision of the sheriff, the administrator of a local or regional jail, or a Department of
77 Corrections probation and parole office established pursuant to § 53.1-141. However, if the offender
78 violates any provision of the terms of the home/electronic incarceration agreement, the offender may
79 have the assignment revoked and, if revoked, shall be held in the jail facility to which he was originally
80 sentenced. Such person shall be eligible if his term of confinement does not include a sentence for a
81 conviction of a felony violent crime, a felony sexual offense, burglary or manufacturing, selling, giving,
82 distributing or possessing with the intent to manufacture, sell, give or distribute a Schedule I or
83 Schedule II controlled substance. The court shall retain authority to remove the offender from such
84 home/electronic incarceration program. The court which sentenced the offender shall be notified in
85 writing by the sheriff or the administrator of a local or regional jail of the offender's place of
86 home/electronic incarceration and place of employment or other rehabilitative program.

87 *D. An assignment to a home/electronic incarceration program is deemed to be a term of confinement*
88 *for an offender who has been convicted and sentenced to a term of confinement.*

89 *DE.* The Board may prescribe regulations to govern home/electronic incarceration programs.

90 *EF.* Any offender or accused assigned to such a program by the court or sheriff who, without proper
91 authority or just cause, leaves his place of home/electronic incarceration, the area to which he has been
92 assigned to work or attend educational or other rehabilitative programs, or the vehicle or route of travel
93 involved in his going to or returning from such place, is guilty of a Class 1 misdemeanor. An offender
94 or accused who is found guilty of a violation of this section shall be ineligible for further participation
95 in a home/electronic incarceration program during his current term of confinement.

96 *FG.* The director or administrator of a home/electronic incarceration program who also operates a
97 residential program may remove an offender from a home/electronic incarceration program and place
98 him in such residential program if the offender commits a noncriminal program violation. The court
99 shall be notified of the violation and of the placement of the offender in the residential program.

100 *GH.* The director or administrator of a home/electronic incarceration program shall charge the
101 offender or accused a fee for participating in the program to pay for the cost of home/electronic
102 incarceration equipment. The offender or accused shall be required to pay the program for any damage
103 to the equipment which is in his possession or for failure to return the equipment to the program.

104 *HI.* Any wages earned by an offender or accused assigned to a home/electronic incarceration program
105 and participating in work release shall be paid to the director or administrator after standard payroll
106 deductions required by law. Distribution of the money collected shall be made in the following order of
107 priority to:

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

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

111 3. Pay travel and other such expenses made necessary by his work release employment or
112 participation in an education or rehabilitative program, including the sums specified in § 53.1-150; and

113 4. Defray the offender's keep.

114 The balance shall be credited to the offender's account or sent to his family in an amount the
115 offender so chooses.

116 The Board of Corrections shall promulgate regulations governing the receipt of wages paid to
117 persons participating in such programs, the withholding of payments and the disbursement of appropriate
118 funds.

119 *IJ.* For the purposes of this section, "sheriff" means the sheriff of the jurisdiction where the person
120 charged with the criminal offense was convicted and sentenced, provided that the sheriff may designate

121 a deputy sheriff or regional jail administrator to assign offenders to home/electronic incarceration
122 programs pursuant to this section.

INTRODUCED

HB151

HB 838 Correctional facilities, local; use of state funds for local alternative incarceration programs.

[Betsy B. Carr](#) | [all patrons](#) ... [notes](#) | [add](#) to my profiles

Summary as introduced:

Local correctional facilities; use of state funds for local alternative incarceration programs. Allows the use of state funds appropriated for financial assistance for the confinement of persons in local facilities for local alternative incarceration programs.

Full text:

[01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10103726D pdf | impact statement](#)

Status:

01/13/10 House: Prefiled and ordered printed; offered 01/13/10 10103726D

[01/13/10 House: Referred to Committee on Militia, Police and Public Safety](#)

[01/28/10 House: Assigned MPPS sub: #3](#)

[02/08/10 House: Subcommittee recommends reporting \(5-Y 0-N\)](#)

[02/09/10 House: Assigned App. sub: Public Safety](#)

[02/09/10 House: Reported from Militia, Police and Public Safety \(16-Y 6-N\)](#)

[02/09/10 House: Referred to Committee on Appropriations](#)

02/10/10 House: Subcommittee recommends no action by voice vote

02/16/10 House: Left in Appropriations

10103726D

HOUSE BILL NO. 838

Offered January 13, 2010

Prefiled January 13, 2010

A *BILL to amend and reenact §§ 53.1-84 and 53.1-86 of the Code of Virginia, relating to use of state funds for local alternative incarceration programs.*

Patrons—Carr; Senator: Hanger

Referred to Committee on Militia, Police and Public Safety

Be it enacted by the General Assembly of Virginia:

1. That §§ 53.1-84 and 53.1-86 of the Code of Virginia is amended and reenacted as follows:

§ 53.1-84. State funds available to local correctional facilities for operating costs.

The Compensation Board shall apportion among local correctional facilities moneys appropriated in the general appropriation act for the purpose of financial assistance for the confinement of persons in local facilities in accordance with reports of prisoner days provided by the Department.

The county or city receiving such funds or a combination of counties or cities or both receiving such funds on behalf of a regional facility shall pay therefrom the operating costs of its local adult correctional facilities and programs. Criminal costs prior to confinement shall be paid out of funds appropriated pursuant to § 19.2-332.

Such funds may also be used to pay for alternative punishment or alternative to incarceration programs for prisoners that would otherwise be housed in a local correctional facility provided that such programs operate under the authority or supervision of the sheriff or local jail board and have been approved by the Department of Corrections or the Department of Criminal Justice Services.

Regulations adopted by the Board to implement the provisions of §§ 53.1-84 through 53.1-86 shall not be subject to legislative review as provided in § 2.2-4014. In the adoption of such regulations, the Board shall comply with all other requirements of the Administrative Process Act (§ 2.2-4000 et seq.), and in any subsequent amendments thereto shall comply with all the provisions of § 2.2-4012.

§ 53.1-86. Limitation on use of state funds; records of receipts and disbursements.

No locality receiving state funds under § 53.1-85 shall use such funds for any purpose other than for paying expenses incurred as the result of the confinement of persons in local correctional facilities *or participation in local alternative incarceration programs*. The Department shall require a locality to return any portion of state funds expended in violation of this provision to the state treasury. Should an unexpended balance of state funds exist at the end of the apportionment year, the unencumbered funds in such balance may be reverted to the local treasury and subsequently shall be expended for operating expenses of local correctional facilities. In the case of regional correctional facilities, the unexpended balance of state funds shall be apportioned by the regional facility's governing body to the participating localities based on the number of prisoner days of persons confined in the facility from each jurisdiction.

Each locality shall keep records of receipts and disbursements of state funds received pursuant to § 53.1-85. Such records shall be open for evaluation by the Department and audit by the Auditor of Public Accounts.

INTRODUCED

HB838

2/11/10 19:52

