



# COMMONWEALTH of VIRGINIA

*Department of Corrections*

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## MEMORANDUM

**To :** Sterling Proffitt, Chairman  
Members Board of Corrections

**From:** William T. Wilson

**Subject:** Amend Model Plan

### Introduction

The 2003 session of the Virginia General Assembly passed House Bill 2765 which became law effective July 1, 2003. This legislation amended the Code of Virginia by adding a section numbered § 53.1-131.3. Payment of costs associated with prisoner keep.

“Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$1.00 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes.”

On September 17, 2003 the Board of Corrections approved an Emergency Regulation in the form of a Model Plan as required by § 53.1-131.3. Please see attached May 19, 2004 Memorandum from Joseph Hagenlocker. This Model plan allowed the localities to collect up to \$1.00 per day from inmates for costs associated with prisoner keep.

On May 19, 2004 the Board of Corrections adopted an amendment to the Model Plan that would allow for those found not guilty on all filed charges to receive a refund of all collected fees. (Please see attached May 19, 2004 Memorandum from Joseph Hagenlocker.)

During the 2009 session of the Virginia General Assembly the Code of Virginia section § 53.1-131.3. was amended as follows:

§ 53.1-131.3. Payment of costs associated with prisoner keep.

“Any sheriff or jail superintendent may establish a program to charge inmates a reasonable fee, not to exceed \$3 per day, to defray the costs associated with the prisoners' keep. The Board shall develop a model plan and adopt regulations for such program, and shall provide assistance, if requested, to the sheriff or jail superintendent in the implementation of such program. Such funds shall be retained in the locality where the funds were collected and shall be used for general jail purposes; however, in the event the jail is a regional jail, funds collected from any such fee shall be credited to the participating locality whose inmate was charged the fee. Any person jailed for an offense they are later acquitted for shall be refunded any such fees paid during their incarceration.”

It is recommended that since this language has changed and since we are in the process of revising the Minimum Standards for Jails and Lockups the Board should consider the Model Plan to reflect these changes.

**Suggested Board Motion:** To approve the Model Plan as revised in conjunction with Code of Virginia § 53.1-131.3. Payment of costs associated with prisoner keep. The revised Model Plan shall now read in its entirety;

### **Model Plan**

***Any sheriff or jail superintendent may establish a program to charge a reasonable fee, not to exceed those fees as set for the in § 53.1-131.3.of the Code of Virginia.***

Upon commitment of an inmate to a jail, intake processing ***shall*** include the issuance of a written statement informing the inmate of the fee for prisoner's keep program and method of payment. Orientation ***shall*** include all pertinent information on fees and program areas. Inmate's signature ***shall*** be required to document notification. ***If the inmate refuses to sign the officer requesting the signature may sign and give statement as to the inmate's refusal.***

If the release date and date of arrival are within 24 hours, the inmate shall be charged the equivalent of one day's fee.

Whenever an inmate has been charged the prisoner's keep fee, the deduction shall be reflected on the inmate's account. Should the inmate have no funds, then the account may be debited until funds are available.

***Distribution or use of the collected fees shall be in accordance with § 53.1-131.3.of the Code of Virginia and 6 VAC15-40 of the Virginia Administrative Code.***

***The program shall include the following components:***

1. There shall be written policy and procedure, unless federal/ state contract precludes, which addresses items such as fee amount, inmate orientation and notification and refund procedures and accounting procedures, and which addresses if any inmates are exempted. Procedures shall include provisions for a refund to any person held in a jail/lockup who is adjudicated “not guilty” on all filed charges. Any person receiving deferred adjudication by the Court pending community corrections programming or whose charges are dismissed / nol prosequi as a result of successfully fulfilling other court mandates shall not be eligible for a refund. Any inmate eligible for a refund must submit a request in writing within 60 days of his/her release. Refunds shall be made from the appropriate funding sources, e.g. commissary finds.
2. There shall be the development of administrative forms; and
3. Staff training for security and administrative personnel.

cc: Cookie Scott