



COMMONWEALTH of VIRGINIA
Office of the Attorney General

Mark R. Herring
Attorney General

202 N. 9th Street
Richmond, Virginia 23219
(804) 786-2071
Fax (804) 786-1991
Virginia Relay Services
800-828-1120
7-1-1

MEMORANDUM

TO: Harold W. Clarke, Director
Virginia Department Corrections
P.O. Box 26963
Richmond, VA 23261

FROM: Phillip O. Figura
Assistant Attorney General

DATE: November 15, 2021

SUBJECT: Periodic review regulations for Private Management and Operation of Prison Facilities
6 VAC 15-45

In response to a request from the Virginia Department of Corrections, I reviewed 6 VAC 15-45 to ensure statutory authority for the regulations on Private Management and Operation of Prison Facilities. Upon review of the aforesaid, these regulations were established under authority of § 53.1-266.1 of the Code of Virginia which was amended by the 2020 Acts of the General Assembly to give the Director, not the Board the authority to promulgate these regulations. As a result, the Board of Local and Regional Jails no longer has the authority to promulgate regulations for Private Management and Operation of Prison Facilities. Given this, I find that the statutory authority for 6 VAC 15-45 no longer exists and this regulation is no longer needed. This action is exempted from Article 2 of the Administrative Process Act.

Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that a certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action