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MEMORANDUM

TO: Harold W. Clarke, Director
Virginia Department of Corrections
P.O. Box 26963
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FROM: Stacie A. Sessoms
Assistant Attorney General

DATE: July 18, 2022

SUBJECT: Review of Regulations Governing Regulations for Human Subject Research – 6 VAC 15-26

In response to a request from the Board of Local and Regional Jail, I reviewed 6 VAC 15-26 to ensure statutory authority for the regulation for Human Subject Research by the Board of Local and Regional Jails.

Upon review of the aforesaid, these regulations were established under authority of § 53.1-5 and § 53.1-1 of the Code of Virginia, which were amended in 2020 to divest the Board of Local and Regional Jails of the authority to promulgate these regulations. Because the statutory authority for such regulations no longer exists, I believe the repeal of the regulations shall be noncontroversial. Thus, the appropriate process to repeal these regulations is that set forth in § 2.2-4012.1, Fast-track rule making process, of the Code of Virginia.

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