ELECTIONS: VOTER REGISTRATION.

MENTAL HEALTH GENERALLY: COMMUNITY MENTAL HEALTH, MENTAL RETARDATION AND SUBSTANCE ABUSE SERVICES.

1996 enactment, which implements requirement in National Voter Registration Act that each state designate voter registration agencies, does not designate office of sheriff as voter registration agency. Secretary of State Board of Elections has designated community service boards as voter registration agencies. Federal Act does not require office of sheriff to provide voter registration for local jail inmates entering community substance abuse programs of community service boards.

The Honorable Frank Drew

Sheriff for the City of Virginia Beach

November 7, 1996

You ask whether the National Voter Registration Act of 1993 requires a sheriff to provide voter registration opportunities for local jail inmates entering community substance abuse programs. If so, you also ask whether voter registration must be made available by the sheriff for all inmates entering such a program or only those inmates who are eligible to vote.

You understand the Act to require that, upon admission to a state hospital or training center or upon intake to a community services program or service, each patient, resident, or client is to be informed of his or her human rights. You believe that a voter registration agency "certification" should be presented and explained to such person entering the mental health facility.

Section 1973gg-5(a)(2) of the National Voter Registration Act requires each state to designate as voter registration agencies

(A) all offices in the State that provide public assistance; and

(B) all offices in the State that provide State-funded programs primarily engaged in providing services to persons with disabilities.

In addition, the Act requires that "each State shall designate other offices within the State as voter registration agencies." Finally, the Act provides examples of the types of state agencies that may be designated as voter registration agencies:

(i) State or local government offices such as public libraries, public schools, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices, and offices not described in paragraph (2)(B) that provide services to persons with disabilities; and

(ii) Federal and nongovernmental offices, with the agreement of such offices.[1]

The National Voter Registration Act became effective in the Commonwealth on March 6, 1996. To implement the Act, the 1996 Session of the General Assembly added, among others, § 24.2411.2 of the Code of Virginia, which designates as voter registration agencies...
1. Agencies whose primary function is to provide public assistance, including agencies that provide benefits under the Aid to Families with Dependent Children program; Special Supplemental Food Program for Women, Infants, and Children; Medicaid program; or Food Stamps program;

2. Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities;

3. Armed Forces recruitment offices; and

4. The regional offices of the Department of Game and Inland Fisheries and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8.\[1\]

The words contained in a statute are to be given the effect of their plain meaning when there is no ambiguity.\[2\] The plain and unambiguous meaning of § 24.2411.2(A) is that the office of the sheriff is not designated as a voter registration agency.

Section 24.2411.2(B) requires "[t]he Secretary of the State Board of Elections, with the assistance of the Office of the Attorney General," to compile and maintain a list of the specific agencies covered by § 24.2411.2(A)(1) and (2). I am advised that as of May 1, 1996, the Secretary of the State Board of Elections has designated the agencies covered by § 24.2411.2(A)(1) and (2).\[3\] The office of the sheriff has not been designated as such an agency.

Chapter 10 of Title 37.1\[4\] provides for the establishment and operation of community mental health, mental retardation and substance abuse services. Pursuant to §§ 37.1194 and 37.1195, every county and city must establish a community services board, either singly or in combination with another political subdivision, to provide such services. The Secretary of the State Board of Elections has designated community services boards as voter registration agencies pursuant to § 24.2411.2.

Therefore, I am of the opinion that the National Voter Registration Act does not require the office of the sheriff to provide voter registration for local jail inmates who are entering community substance abuse programs of community service boards.\[5\]


\[5\]Ch. 72, 1996 Va. Acts 84, 8889; Ch. 73, id. at 94, 9899 (effective Mar. 6, 1996).

\[6\]Section 24.2411.2(A).

Department for the Deaf and Hard-of-Hearing; Department of Game and Inland Fisheries; Department of Health; Statewide Independent Living Council (disability agency); Department of Mental Health, Mental Retardation and Substance Abuse Services (community services boards, state mental health facilities, and state mental retardation facilities); Department of Motor Vehicles; Department of Rehabilitative Services; Department for Rights of Virginians with Disabilities; Department of Social Services; Department for the Visually Handicapped; and Virginia Employment Commission (Northern Virginia only).

Sections 37.1194 to 37.1202.1.

Since I respond in the negative to your first inquiry, it is not necessary that I respond to your second.