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SENATE BILL NO. 552

Offered January 24, 2000

A BILL to amend the Code of Virginia by adding in Chapter 8 of Title 51.5 a section numbered 51.5-37.1, relating to persons with mental retardation, developmental disabilities or mental illness.

Patrons—Hanger, Bolling, Martin, Potts, Rerras, Schrock and Wampler; Delegates: Albo, Blevins, Byron, Callahan, Devolites, Drake, Dudley, Kilgore, Landes, Louderback, O'Brien, Purkey and Wardrup

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 8 of Title 51.5 a section numbered 51.5-37.1 as follows:

§ 51.5-37.1. Confidentiality of information.

A. All records, documents, reports or other information or material, regardless of physical form or characteristics, received, prepared or maintained by the Department, its employees or agents, relating to any individual who has applied for or who is receiving services from the Department, or which was gathered as part of an investigation of alleged abuse or neglect or other denial of rights of an individual with a disability, shall be confidential and exempt from the provisions of the Virginia Freedom of Information Act (§ 2.1-340 et seq.).

B. The relationship between employees and agents of the Department and its clients or applicants for Department services shall be a fiduciary relationship, and all communications shall be confidential, as if between attorney and client.

C. Notwithstanding the provisions in this section, the Department shall be permitted to:

1. Allow access by a client to his own records unless such disclosure is otherwise prohibited by state or federal law;

2. Issue a public report of the results of an investigation that maintains the confidentiality of the client or individual service recipients; and

3. Report the results of an investigation to responsible investigative or enforcement agencies should an investigation reveal information concerning any hospital, facility or other entity, its staff or employees, warranting possible sanctions or corrective action. This information shall be reported to agencies responsible for oversight, licensing or accreditation, employee discipline, employee licensing or certification, or criminal prosecution.

INTRODUCED

SB552