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HOUSE BILL NO. 953

Offered January 14, 2004

Prefiled January 14, 2004

A BILL to amend and reenact § 54.1-2969 of the Code of Virginia, relating to records, reports and requirements relating to certain services delivered to minors.

Patron—Lingamfelter

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 54.1-2969 of the Code of Virginia is amended and reenacted as follows:**

§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors.

A. Whenever any minor who has been separated from the custody of his parent or guardian is in need of surgical or medical treatment, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

1. Upon judges with respect to minors whose custody is within the control of their respective courts.

2. Upon local directors of social services or their designees with respect to (i) minors who are committed to the care and custody of the local board by courts of competent jurisdiction, (ii) minors who are taken into custody pursuant to § 63.2-1517, and (iii) minors who are entrusted to the local board by the parent, parents or guardian, when the consent of the parent or guardian cannot be obtained immediately and, in the absence of such consent, a court order for such treatment cannot be obtained immediately.

3. Upon the Director of the Department of Corrections or the Director of the Department of Juvenile Justice or his designees with respect to any minor who is sentenced or committed to his custody.

4. Upon the principal executive officers of state institutions with respect to the wards of such institutions.

5. Upon the principal executive officer of any other institution or agency legally qualified to receive minors for care and maintenance separated from their parents or guardians, with respect to any minor whose custody is within the control of such institution or agency.

6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or other charge under disability.

B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or medical treatment is unobtainable because such parent or guardian is not a resident of this Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, upon judges of juvenile and domestic relations district courts.

C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor's recovery and no person authorized in this section to consent to such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel as defined in § 32.1-111.1 at the scene of an accident, fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor fourteen years of age or older who is physically capable of giving consent, such consent shall be obtained first.

D. Whenever delay in providing transportation to a minor from the scene of an accident, fire or other emergency prior to hospital admission may adversely affect such minor's recovery and no person authorized in this section to consent to such transportation for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon emergency medical services personnel as defined in § 32.1-111.1, by reason of lack of consent to such transportation. However, in the case of a minor fourteen years of age or older who is physically capable of giving consent, such consent shall be obtained first.

E. A minor shall be deemed an adult for the purpose of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported;

2. Medical or health services required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization;

3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse as defined in § 37.1-203;

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59 4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for
60 mental illness or emotional disturbance; or

61 5. The release of medical records related to subdivisions 1 and 2.

62 F. Except for the purposes of sexual sterilization, any minor who is or has been married shall be
63 deemed an adult for the purpose of giving consent to surgical and medical treatment.

64 G. A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and
65 her child to surgical and medical treatment relating to the delivery of her child when such surgical or
66 medical treatment is provided during the delivery of the child or the duration of the hospital admission
67 for such delivery; thereafter, the minor mother of such child shall also be deemed an adult for the
68 purpose of giving consent to surgical and medical treatment for her child.

69 H. Any minor seventeen years of age may, with the consent of a parent or legal guardian, consent to
70 donate blood and may donate blood if such minor meets donor eligibility requirements. However,
71 parental consent to donate blood by any minor seventeen years of age shall not be required if such
72 minor receives no consideration for his blood donation and the procurer of the blood is a nonprofit,
73 voluntary organization.

74 I. Any judge, local director of social services, Director of the Department of Corrections, Director of
75 the Department of Juvenile Justice, or principal executive officer of any state or other institution or
76 agency who consents to surgical or medical treatment of a minor in accordance with this section shall
77 make a reasonable effort to notify the minor's parent or guardian of such action as soon as practicable.

78 J. Nothing in subsection G shall be construed to permit a minor to consent to an abortion without
79 complying with § 16.1-241.

80 K. Nothing in subdivision 3 of subsection E shall prevent a parent, legal guardian or person standing
81 in loco parentis from obtaining the results of a minor's nondiagnostic drug test when the minor is not
82 receiving care, treatment or rehabilitation for substance abuse as defined in § 37.1-203.

83 *L. Every local or district health department that delivers health care services, and every community*
84 *services board, by whatever name known or described in law, shall maintain aggregate records, without*
85 *specific patient identifiers and in compliance with federal patient privacy requirements on the services*
86 *delivered to minors pursuant to subsection E that relate to sexually transmitted diseases; outpatient*
87 *care, treatment or rehabilitation for substance abuse; pregnancy; and the contemplation of suicide. Such*
88 *records shall, at minimum, include the following information as relevant:*

89 *1. The specific sexually transmitted disease for which treatment was sought and the treatment*
90 *recommended or provided;*

91 *2. The specific drug or drugs for which substance abuse outpatient care, treatment or rehabilitation*
92 *was sought and the treatment recommended or provided;*

93 *3. The month of pregnancy at the time prenatal care was initiated and any particular treatment*
94 *recommended or provided;*

95 *4. The reason for or any mental illness diagnosis that is implicated in the minor's contemplation of*
96 *suicide;*

97 *5. Any prescription drugs that the minor is currently taking; and*

98 *6. The minor's rationale for excluding his parent from participating in the specific health care being*
99 *sought.*

100 *As a condition of delivery of such care, each local or district health department or community*
101 *services board shall require that each minor receiving services pursuant to subsection E shall (i)*
102 *disclose any prescription drugs currently being taken; (ii) acknowledge, in writing, that it is best to have*
103 *his parent to participate in such treatment decision; and (iii) disclose the rationale for excluding his*
104 *parent from participating in the specific health care being sought.*

105 *A combined report of such aggregate data shall be compiled and distributed to the Governor and the*
106 *General Assembly annually by the Department of Health and the Department of Mental Health, Mental*
107 *Retardation and Substance Abuse Services from such data as the departments shall require local or*
108 *district health departments that deliver health care services and community services boards to report.*
109 *Such report shall include the reason or reasons for seeking health care, the number of minors seen for*
110 *each category of care for which a minor may be deemed an adult, the number of minors treated in the*
111 *last 12 months, the number of visits any minor has made for the same health condition, and the number*
112 *of minors who are treated for sexually transmitted diseases that are also known to be substance abusers.*

113 *The combined report shall be posted prominently on the Department of Health's website in a manner*
114 *that allows the general public to access the results for each local jurisdiction in the Commonwealth as*
115 *well as the state at large.*