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**HOUSE BILL NO. 598**

Offered January 11, 2006

Prefiled January 10, 2006

*A BILL to amend and reenact §§ 32.1-111.4 and 63.2-1509 of the Code of Virginia, relating to the duty to report suspected child abuse; penalty.*

Patrons—Cosgrove, Athey, Callahan, Fralin, Gilbert, Landes, Lingamfelter, Marshall, D.W., O'Bannon, Suit and Welch

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:****1. That §§ 32.1-111.4 and 63.2-1509 of the Code of Virginia are amended and reenacted as follows:**

§ 32.1-111.4. Regulations; emergency medical services personnel and vehicles; response times; enforcement provisions; civil penalties.

A. The State Board of Health shall prescribe by regulation:

1. Requirements for record keeping, supplies, operating procedures and other agency operations;

2. Requirements for the sanitation and maintenance of emergency medical services vehicles and their medical supplies and equipment;

3. Procedures, including the requirements for forms, to authorize qualified emergency medical services personnel to follow Do Not Resuscitate Orders pursuant to § 54.1-2987.1;

4. Requirements for the composition, administration, duties and responsibilities of the State Emergency Medical Services Advisory Board;

5. Requirements, developed in consultation with the Emergency Medical Services Advisory Board, governing the training, certification, and recertification of emergency medical services personnel; *including the duty to report suspected child abuse or neglect as provided in § 63.2-1509;*

6. Requirements for written notification to the State Emergency Medical Services Advisory Board, the State Office of Emergency Medical Services, and the Financial Assistance and Review Committee of the Board's action, and the reasons therefor, on requests and recommendations of the Advisory Board, the State Office of Emergency Medical Services or the Committee, no later than five workdays after reaching its decision, specifying whether the Board has approved, denied, or not acted on such requests and recommendations;

7. Authorization procedures, developed in consultation with the Emergency Medical Services Advisory Board, which allow the possession and administration of epinephrine or a medically accepted equivalent for emergency cases of anaphylactic shock by certain levels of certified emergency medical services personnel as authorized by § 54.1-3408;

8. A uniform definition of "response time" and requirements, developed in consultation with the Emergency Medical Services Advisory Board, for each agency to measure response times starting from the time a call for emergency medical care is received until (i) the time an appropriate emergency medical response unit is responding and (ii) the appropriate emergency medical response unit arrives on the scene, and requirements for agencies to collect and report such data to the Director of the Office of Emergency Medical Services who shall compile such information and make it available to the public, upon request; and

9. Enforcement provisions, including, but not limited to, civil penalties that the Commissioner may assess against any agency or other entity found to be in violation of any of the provisions of this article or any regulation promulgated under this article. All amounts paid as civil penalties for violations of this article or regulations promulgated pursuant thereto shall be paid into the state treasury and shall be deposited in the emergency medical services special fund established pursuant to § 46.2-694, to be used only for emergency medical services purposes.

B. The Board shall classify agencies and emergency medical services vehicles by type of service rendered and shall specify the medical equipment, the supplies, the vehicle specifications and the personnel required for each classification.

C. In formulating its regulations, the Board shall consider the current Minimal Equipment List for Ambulances adopted by the Committee on Trauma of the American College of Surgeons.

§ 63.2-1509. Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or

INTRODUCED

HB598

58 to the Department's toll-free child abuse and neglect hotline:

- 59 1. Any person licensed to practice medicine or any of the healing arts;
- 60 2. Any hospital resident or intern, and any person employed in the nursing profession;
- 61 3. Any person employed as a social worker;
- 62 4. Any probation officer;
- 63 5. Any teacher or other person employed in a public or private school, kindergarten or nursery
- 64 school;
- 65 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
- 66 7. Any duly accredited Christian Science practitioner;
- 67 8. Any mental health professional;
- 68 9. Any law-enforcement officer;
- 69 10. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
- 70 11. Any professional staff person, not previously enumerated, employed by a private or state-operated
- 71 hospital, institution or facility to which children have been committed or where children have been
- 72 placed for care and treatment;
- 73 12. Any person associated with or employed by any private organization responsible for the care,
- 74 custody or control of children; and
- 75 13. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151
- 76 et seq.) of Chapter 1 of Title 9.1.
- 77 14. *Any emergency medical services personnel certified by the Board of Health pursuant to*
- 78 *§ 32.1-111.5.*

79 If neither the locality in which the child resides nor where the abuse or neglect is believed to have  
80 occurred is known, then such report shall be made to the local department of the county or city where  
81 the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

82 If an employee of the local department is suspected of abusing or neglecting a child, the report shall  
83 be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of  
84 such a report by the court, the judge shall assign the report to a local department that is not the  
85 employer of the suspected employee for investigation or family assessment. The judge may consult with  
86 the Department in selecting a local department to respond to the report or the complaint.

87 If the information is received by a teacher, staff member, resident, intern or nurse in the course of  
88 professional services in a hospital, school or similar institution, such person may, in place of said report,  
89 immediately notify the person in charge of the institution or department, or his designee, who shall  
90 make such report forthwith.

91 The initial report may be an oral report but such report shall be reduced to writing by the child  
92 abuse coordinator of the local department on a form prescribed by the Board. Any person required to  
93 make the report pursuant to this subsection shall disclose all information that is the basis for his  
94 suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective  
95 services coordinator and the local department, which is the agency of jurisdiction, any information,  
96 records or reports that document the basis for the report. All persons required by this subsection to  
97 report suspected abuse or neglect who maintain a record of a child who is the subject of such a report  
98 shall cooperate with the investigating agency and shall make related information, records and reports  
99 available to the investigating agency unless such disclosure violates the federal Family Educational  
100 Rights and Privacy Act (20 U.S.C. § 1232(g)). Provision of such information, records and reports by a  
101 health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from  
102 law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be  
103 subject to public disclosure.

104 B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include  
105 (i) a finding made by an attending physician within seven days of a child's birth that the results of a  
106 blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a  
107 controlled substance not prescribed for the mother by a physician; (ii) a finding by an attending  
108 physician made within forty-eight hours of a child's birth that the child was born dependent on a  
109 controlled substance which was not prescribed by a physician for the mother and has demonstrated  
110 withdrawal symptoms; (iii) a diagnosis by an attending physician made within seven days of a child's  
111 birth that the child has an illness, disease or condition which, to a reasonable degree of medical  
112 certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a  
113 physician for the mother or the child; or (iv) a diagnosis by an attending physician made within seven  
114 days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to  
115 alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the  
116 report along with the facts relied upon by the person making the report.

117 C. Any person who makes a report or provides records or information pursuant to subsection A or  
118 who testifies in any judicial proceeding arising from such report, records or information shall be immune  
119 from any civil or criminal liability or administrative penalty or sanction on account of such report,

120 records, information or testimony, unless such person acted in bad faith or with malicious purpose.

121 D. Any person required to file a report pursuant to this section who fails to do so within seventy-two  
122 hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first  
123 failure and for any subsequent failures not less than \$100 nor more than \$1,000.

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HB598