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HOUSE BILL NO. 121

Offered January 9, 2008

Prefiled December 17, 2007

A BILL to amend and reenact § 54.1-2969 of the Code of Virginia, relating to parental notification of minor's mental health treatment.

Patrons—Lingamfelter, Athey, Cole, Cosgrove, Crockett-Stark, Gilbert, Marshall, R.G., Massie, Merricks, Morgan and Sherwood

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 the 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 14 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 14 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

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58 substance abuse as defined in § 37.2-100; or

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

61 A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of
62 medical records related to subdivisions 1 through 4.

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

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

70 H. Any minor 17 years of age may, with the consent of a parent or legal guardian, consent to donate
71 blood and may donate blood if such minor meets donor eligibility requirements. However, parental
72 consent to donate blood by any minor 17 years of age shall not be required if such minor receives no
73 consideration for his blood donation and the procurer of the blood is a nonprofit, 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 subsection E shall prevent a parent, legal guardian or person standing in loco parentis
81 from obtaining (i) the results of a minor's nondiagnostic drug test when the minor is not receiving care,
82 treatment or rehabilitation for substance abuse as defined in § 37.2-100 or (ii) a minor's other health
83 records, except when the minor's treating physician or the minor's treating clinical psychologist has
84 determined, in the exercise of his professional judgment, that the disclosure of health records to the
85 parent, legal guardian, or person standing in loco parentis would be reasonably likely to cause
86 substantial harm to the minor or another person pursuant to subsection B of § 20-124.6.

87 *L. Notwithstanding subsection E, any state or local employee providing mental health services,*
88 *including suicide prevention services, to a minor child shall notify a parent, legal guardian, or person*
89 *standing in loco parentis of the provision of such services. Notification may be made in person, by*
90 *telephone, by certified mail, or by electronic means within five days of the provision of services, except*
91 *when the service provider determines, in the exercise of his professional judgment, that notice to the*
92 *parent, guardian, or person standing in loco parentis would be reasonably likely to cause substantial*
93 *harm to the minor or another person pursuant to subsection B of § 20-124.6. Where a state or local*
94 *provider issues the required notice within the required time, the provider shall not be liable for any civil*
95 *damages resulting from failure of the parent, legal guardian, or person standing in loco parentis to*
96 *receive the notice.*