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SENATE BILL NO. 667

Senate Amendments in [] - February 13, 2012

A BILL to amend and reenact §§ 8.01-226.5:2, 40.1-103, and 63.2-1530 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-371.1:1, relating to child endangerment; penalty.

Patron Prior to Engrossment—Senator Garrett

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-226.5:2, 40.1-103, and 63.2-1530 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-371.1:1 as follows:

§ 8.01-226.5:2. Immunity of hospital or rescue squad personnel for the acceptance of certain infants.

Any personnel of a hospital or rescue squad receiving a child under the circumstances described in subsection B of § 18.2-371, subdivision B 2 of § 18.2-371.1, or subsection B of § 40.1-103 18.2-371.1:1 shall be immune from civil liability or criminal prosecution for injury or other damage to the child unless such injury or other damage is the result of gross negligence or willful misconduct by such personnel.

§ 18.2-371.1:1. Cruelty and injuries to children; penalty; abandoned infant.

A. It shall be unlawful for any person employing or having the custody of any child [~~willfully or negligently~~ , by willful act or omission that is so gross, wanton and culpable as to show a reckless disregard for human life,] to cause or permit the life of such child to be endangered or the health of such child to be injured, [~~or willfully or negligently to cause or permit such child to be placed in a situation that his life, health, or morals may be endangered,~~] or to cause or permit such child to be overworked, tortured, tormented, mutilated, beaten, or cruelly treated. Any person violating this section is guilty of a Class 6 felony.

B. If a prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

§ 40.1-103. Cruelty and injuries to children; penalty; abandoned infant.

A. It shall be unlawful for any person employing or having the custody of any child willfully or negligently to cause or permit the life of such child to be endangered or the health of such child to be injured, or willfully or negligently to cause or permit such child to be placed in a situation that its life, health or morals may be endangered, or to cause or permit such child to be overworked, tortured, tormented, mutilated, beaten or cruelly treated. Any person violating this section shall be guilty of a Class 6 felony.

B. If a prosecution under this section is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this section that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.

The following unlawful acts and offenses shall constitute and be punished as a Class 6 felony:

A violation of § 18.2-371.1:1, subject to the affirmative defense set out in subsection B of § 18.2-371.1:1.

§ 63.2-1530. Virginia Child Protection Accountability System.

A. The Virginia Child Protection Accountability System (the System) is created to collect and make available to the public information on the response to reported cases of child abuse and neglect in the Commonwealth. The Department shall establish and maintain the System. The Board shall promulgate regulations to implement the provisions of this section.

B. The following information shall, notwithstanding any state law regarding privacy or confidentiality of records, be included in the System and made available to the public via a website maintained by the Department and in print format:

1. From the Department: (i) the total number of complaints alleging child abuse, neglect, or a

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59 combination thereof received; (ii) the total number of complaints deemed valid pursuant to § 63.2-1508;
60 (iii) the total number of complaints investigated by the Department pursuant to subsection I of
61 §§ 63.2-1503 and § 63.2-1505; (iv) the total number of cases determined to be founded cases of abuse
62 or neglect; and (v) the total number of cases resulting in a finding that the complaint was founded
63 resulting in administrative appeal. Information reported pursuant to clause (v) shall be reported by total
64 number of appeals to the local department, total number of appeals to the Department, and total number
65 of appeals by outcome of the appeal. For each category of information required by this subdivision, the
66 Department shall also report the total number of cases by type of abuse; by gender, age, and race of the
67 alleged victim; and by the nature of the relationship between the alleged victim and alleged abuser.

68 2. The Department of State Police shall report annually, in a format approved by the Department of
69 Social Services, arrest and disposition statistics for violations of §§ 18.2-48, 18.2-61, 18.2-63, 18.2-64.1,
70 18.2-67.1, 18.2-67.2, 18.2-67.3, 18.2-67.4, 18.2-355, 18.2-361, 18.2-366, 18.2-370 through 18.2-370.2,
71 18.2-371, 18.2-371.1, 18.2-371.1:1, 18.2-374.1, 18.2-374.1:1, 18.2-374.3, 18.2-387, and 40.1-103 for
72 inclusion in the Child Protection Accountability System.

73 3. From every circuit court in the Commonwealth for which data is available through the statewide
74 Case Management System: (i) the total number of (a) misdemeanor convictions appealed from the
75 district court to the circuit court, (b) felony charges certified from the district court to the circuit court,
76 and (c) charges brought by direct indictment in the circuit court that involve a violation of any code
77 section set forth in subdivision B 2; (ii) the total number of cases appealed, certified, or transferred to
78 the court or brought by direct indictment in the circuit court involving a violation of any code section
79 set forth in subdivision B 2 that result in a trial, including the number of bench trials and the number of
80 jury trials; and (iii) the total number of trials involving a violation of any code section set forth in
81 subdivision B 2 resulting in (a) a plea agreement, (b) transfer to another court, (c) a finding of not
82 guilty, (d) conviction on a lesser included offense, or (e) conviction on all charges, by type of trial.
83 Information required to be reported pursuant to subdivisions B 1, B 2, and B 3 shall be reported
84 annually in a format approved by the Department of Social Services and aggregated by locality.

85 C. Data collected pursuant to subsection B shall be made available to the public on a website
86 established and maintained by the Department and shall also be made readily available to the public in
87 print format. Information included in the System shall be presented in such a manner that no individual
88 identifying information shall be included.

89 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
90 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**
91 **for periods of imprisonment in state adult correctional facilities and is \$0 for periods of**
92 **commitment to the custody of the Department of Juvenile Justice.**