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HOUSE BILL NO. 1869

Offered January 14, 2015

Prefiled January 13, 2015

A BILL to amend and reenact §§ 19.2-53 and 19.2-56 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 18.2-16.1 and 18.2-36.3, relating to abolishing the common-law crime of suicide; assisted suicide; penalty.

Patron—Krupicka

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-53 and 19.2-56 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 18.2-16.1 and 18.2-36.3 as follows:

§ 18.2-16.1. Common-law crime of suicide abolished.

The common-law crime of suicide is hereby abolished.

§ 18.2-36.3. Assisted suicide; penalty.

A. For purposes of this section:

"Licensed health care provider" means a physician, surgeon, podiatrist, osteopath, osteopathic physician and surgeon, physician assistant, nurse, dentist, or pharmacist licensed under the laws of the Commonwealth.

"Suicide" means the act or instance of taking one's own life voluntarily and intentionally.

B. Any person who knowingly and intentionally, with the purpose of assisting another person to commit or attempt to commit suicide, (i) provides the physical means by which another person commits or attempts to commit suicide or (ii) participates in a physical act by which another person commits or attempts to commit suicide is guilty of a Class 1 misdemeanor.

C. Nothing in this section shall be construed to limit or conflict with § 54.1-2971.01 or the Health Care Decisions Act (§ 54.1-2981 et seq.). This section shall not apply to a licensed health care provider who (i) administers, prescribes, or dispenses medications or procedures to relieve another person's pain or discomfort and without intent to cause death, even if the medication or procedure may hasten or increase the risk of death, or (ii) withholds or withdraws life-prolonging procedures as defined in § 54.1-2982. This section shall not apply to any person who properly administers a legally prescribed medication without intent to cause death, even if the medication may hasten or increase the risk of death.

§ 19.2-53. What may be searched and seized.

Search warrants may be issued for the search of or for specified places, things, or persons; and seizure therefrom of the following things as specified in the warrant:

(1) Weapons or other objects used in the commission of crime;

(2) Articles or things the sale or possession of which is unlawful;

(3) Stolen property or the fruits of any crime;

(4) Any object, thing, or person, including without limitation, documents, books, papers, records or body fluids, constituting evidence of the commission of crime.

A search warrant may be issued for the search of specified places, things, or persons in connection with the commission of suicide.

Notwithstanding any other provision in this chapter to the contrary, no search warrant may be issued as a substitute for a witness subpoena.

§ 19.2-56. To whom search warrant directed; what it shall command; warrant to show date and time of issuance; copy of affidavit to be part of warrant and served therewith; warrants not executed within 15 days.

The judge, magistrate or other official authorized to issue criminal warrants, shall issue a search warrant if he finds from the facts or circumstances recited in the affidavit that there is probable cause for the issuance thereof.

Every search warrant shall be directed to (i) the sheriff, sergeant, or any policeman of the county, city or town in which the place to be searched is located, (ii) any law-enforcement officer or agent employed by the Commonwealth and vested with the powers of sheriffs and police, or (iii) jointly to any such sheriff, sergeant, policeman or law-enforcement officer or agent and an agent, special agent or officer of the Federal Bureau of Investigation, the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury, the United States Naval Criminal Investigative Service, the United States Department of Homeland Security, any inspector, law-enforcement official or police personnel of the

INTRODUCED

HB1869

59 United States Postal Inspection Service, or the Drug Enforcement Administration. The warrant shall (i)
60 name the affiant, (ii) recite the offense *or suicide* in relation to which the search is to be made, (iii)
61 name or describe the place to be searched, (iv) describe the property or person to be searched for, and
62 (v) recite that the magistrate has found probable cause to believe that the property or person constitutes
63 evidence of a crime *or of suicide* (identified in the warrant) or tends to show that a person (named or
64 described therein) has committed or is committing a crime *or has committed suicide*.

65 The warrant shall command that the place be forthwith searched, either in day or night, and that the
66 objects or persons described in the warrant, if found there, be seized. An inventory shall be produced
67 before a court having jurisdiction of the offense in relation to which the warrant was issued as provided
68 in § 19.2-57.

69 Any such warrant as provided in this section shall be executed by the policeman or other
70 law-enforcement officer or agent into whose hands it shall come or be delivered. If the warrant is
71 directed jointly to a sheriff, sergeant, policeman or law-enforcement officer or agent of the
72 Commonwealth and a federal agent or officer as otherwise provided in this section, the warrant may be
73 executed jointly or by the policeman, law-enforcement officer or agent into whose hands it is delivered.
74 No other person may be permitted to be present during or participate in the execution of a warrant to
75 search a place except (i) the owners and occupants of the place to be searched when permitted to be
76 present by the officer in charge of the conduct of the search and (ii) persons designated by the officer in
77 charge of the conduct of the search to assist or provide expertise in the conduct of the search.

78 Any search warrant for records or other information pertaining to a subscriber to, or customer of, an
79 electronic communication service or remote computing service, whether a domestic corporation or
80 foreign corporation, that is transacting or has transacted any business in the Commonwealth, to be
81 executed upon such service provider may be executed within or without the Commonwealth by hand,
82 United States mail, commercial delivery service, facsimile, or other electronic means upon the service
83 provider. Notwithstanding the provisions of § 19.2-57, the officer executing a warrant pursuant to this
84 paragraph shall endorse the date of execution thereon and shall file the warrant, with the inventory
85 attached (or a notation that no property was seized) and the accompanying affidavit, unless such
86 affidavit was made by voice or videotape recording, within three days after the materials ordered to be
87 produced are received by the officer from the service provider. The return shall be made in the circuit
88 court clerk's office for the jurisdiction wherein the warrant was issued. Saturdays, Sundays, or any
89 federal or state legal holiday shall not be used in computing the three-day filing period.

90 Electronic communication service or remote computing service providers, whether a foreign or
91 domestic corporation, shall also provide the contents of electronic communications pursuant to a search
92 warrant issued under this section and § 19.2-70.3 using the same process described in the preceding
93 paragraph.

94 Every search warrant shall contain the date and time it was issued. However, the failure of any such
95 search warrant to contain the date and time it was issued shall not render the warrant void, provided that
96 the date and time of issuing of said warrant is established by competent evidence.

97 The judge, magistrate, or other official authorized to issue criminal warrants shall attach a copy of
98 the affidavit required by § 19.2-54, which shall become a part of the search warrant and served
99 therewith. However, this provision shall not be applicable in any case in which the affidavit is made by
100 means of a voice or videotape recording or where the affidavit has been sealed pursuant to § 19.2-54.

101 Any search warrant not executed within 15 days after issuance thereof shall be returned to, and
102 voided by, the officer who issued such search warrant.

103 For the purposes of this section:

104 "Foreign corporation" means any corporation or other entity, whose primary place of business is
105 located outside of the boundaries of the Commonwealth, that makes a contract or engages in a terms of
106 service agreement with a resident of the Commonwealth to be performed in whole or in part by either
107 party in the Commonwealth, or a corporation that has been issued a certificate of authority pursuant to
108 § 13.1-759 to transact business in the Commonwealth. The making of the contract or terms of service
109 agreement or the issuance of a certificate of authority shall be considered to be the agreement of the
110 foreign corporation or entity that a search warrant or subpoena, which has been properly served on it,
111 has the same legal force and effect as if served personally within the Commonwealth.

112 "Properly served" means delivery of a search warrant or subpoena by hand, by United States mail, by
113 commercial delivery service, by facsimile or by any other manner to any officer of a corporation or its
114 general manager in the Commonwealth, to any natural person designated by it as agent for the service
115 of process, or if such corporation has designated a corporate agent, to any person named in the latest
116 annual report filed pursuant to § 13.1-775.