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SENATE BILL NO. 1462

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions on February 14, 2017)

(Patron Prior to Substitute—Senator McPike)

A BILL to amend and reenact § 63.2-1605 of the Code of Virginia, relating to financial exploitation of adults; reporting to local law enforcement and State Police.

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1605 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-1605. Protective services for adults by local departments.

A. Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of such report and shall initiate an investigation within 24 hours of the time the report is received in the local department. Local departments shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

C. The local department or the adult protective services hotline shall immediately refer the matter and all relevant documentation to the local law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon determining, during the course of an investigation pursuant to this article, the occurrence of any of the following:

- 1. Sexual abuse as defined in § 18.2-67.10;
- 2. Death that is believed to be the result of abuse or neglect;
- 3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or neglect;
- 4. Suspected financial exploitation of an adult; or
- 5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death or serious bodily harm.

Local law-enforcement agencies shall provide local departments and the adult protective services hotline with a preferred point of contact for referrals.

D. The local department shall refer any appropriate matter and all relevant documentation, to the appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

~~D.~~ E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult protective services, then the local department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may enter an order permitting such access or entry.

~~E.~~ F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings, or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of making an informed decision and of giving informed consent and either has no legal representative or the legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be given by an agent appointed under an advance medical directive or medical power of attorney, or by a person authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately available, then consent shall be deemed to be given.

~~F.~~ G. Local departments shall foster the development, implementation, and coordination of adult protective services to prevent adult abuse, neglect, and exploitation.

~~G.~~ H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults incarcerated in state correctional facilities.

~~H.~~ Local departments or the adult protective services hotline, upon receiving the initial report pursuant to § 63.2-1606, shall immediately notify the local law-enforcement agency where the adult

60 resides, or where the alleged abuse, neglect, or exploitation took place, or if these places are unknown,
61 then where the alleged abuse, neglect, or exploitation was discovered, when in receipt of a report
62 describing any of the following:

63 1. Sexual abuse as defined in ~~§ 18.2-67.10~~;

64 2. Death, serious bodily injury or disease as defined in ~~§ 18.2-369~~ that is believed to be the result of
65 abuse or neglect; or

66 3. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of
67 death or serious bodily harm.

68 I. Upon receipt of an initial report pursuant to ~~§ 63.2-1606~~ or during an adult protective services
69 investigation of suspected financial exploitation of an adult in which financial losses to the adult
70 resulting from the exploitation are suspected to be greater than \$50,000, the local department or adult
71 protective services hotline shall immediately refer the matter and all relevant documentation to the local
72 law-enforcement agency where the adult resides or where the alleged exploitation took place or, if these
73 places are not known, where the alleged exploitation was discovered, for investigation.

74 J. 1. The report and evidence received by the local department and any written findings, evaluations,
75 records, and recommended actions shall be confidential and shall be exempt from disclosure
76 requirements of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such
77 information may be disclosed to persons having a legitimate interest in the matter in accordance with
78 §§ 63.2-102 and 63.2-104 and pursuant to official interagency agreements or memoranda of
79 understanding between state agencies.