

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend the Code of Virginia by adding in Article 2 of Chapter 5 of Title 32.1 sections numbered 32.1-138.4 and 32.1-138.5, and by adding sections numbered 63.1-177.1 and 63.1-177.2, relating to nursing facilities and adult care residences.

[H 1163]

Approved

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Article 2 of Chapter 5 of Title 32.1 sections numbered 32.1-138.4 and 32.1-138.5 and by adding sections numbered 63.1-177.1 and 63.1-177.2 as follows:

§ 32.1-138.4. *Retaliation or discrimination against complainants.*

No nursing facility may retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government, having responsibility for protecting the rights of patients of nursing facilities or (ii) attempts to assert any right protected by state or federal law.

§ 32.1-138.5 *Confidentiality of complainant's identity.*

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any patient who is the subject of the complaint, or identified therein, shall be treated as confidential and shall not be open to inspection by members of the public. Identities of the complainant and patient who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the nursing facility the nature of the complaint or the identity of the patient who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under § 63.1-55.2 et seq. If the Department intends to rely, in whole or in part, on any statements made by the complainant, at any administrative hearing brought against the nursing facility, the Department shall disclose the identity of the complainant to the nursing facility a reasonable time in advance of such hearing.

§ 63.1-177.1. *Retaliation or discrimination against complainants.*

No adult care residence may retaliate or discriminate in any manner against any person who (i) in good faith complains or provides information to, or otherwise cooperates with, the Department or any other agency of government or any person or entity operating under contract with an agency of government, having responsibility for protecting the rights of residents of adult care residences or (ii) attempts to assert any right protected by state or federal law.

§ 63.1-177.2. *Confidentiality of complainant's identity.*

Whenever the Department conducts inspections and investigations in response to complaints received from the public, the identity of the complainant and the identity of any resident who is the subject of the complaint, or identified therein, shall be treated as confidential and shall not be open to inspection by members of the public. Identities of the complainant and resident who is the subject of the complaint shall be revealed only if a court order so requires. Nothing contained herein shall prevent the Department, in its discretion, from disclosing to the adult care residence the nature of the complaint or the identity of the resident who is the subject of the complaint. Nothing contained herein shall prevent the Department or its employees from making reports under § 63.1-55.2 et seq. If the Department intends to rely, in whole or in part, on any statements made by the complainant, at any administrative hearing brought against the adult care residence, the Department shall disclose the identity of the complainant to the adult care residence a reasonable time in advance of such hearing.

ENROLLED

HB163ER