

LD3521336

HOUSE BILL NO. 415

Offered January 21, 1994

A BILL to amend and reenact § 54.1-2969 of the Code of Virginia, as it is currently effective and as it may become effective, relating to health records of minors.

Patrons—Martin, Hamilton, Putney and Reid

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, as it is currently effective and as it may become effective, is amended and reenacted as follows:

§ 54.1-2969. (For effective date - See note) 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 superintendents of public welfare or 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 § 63.1-248.9 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 Youth and Family Services 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 this 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 a licensed health professional or licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor fourteen years of age or older who is physically capable of giving consent, such consent shall be obtained first.

D. 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 which 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 substance abuse as defined in § 37.1-203;

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

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

F. Any minor seventeen years of age may, with the consent of a parent or legal guardian, consent to donate blood and may donate blood if such minor meets donor eligibility requirements. However,

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60 parental consent to donate blood by any minor seventeen years of age shall not be required if such
61 minor receives no consideration for his blood donation and the procurer of the blood is a nonprofit,
62 voluntary organization.

63 G. Any judge, local superintendent of public welfare or social services, Director of the Department of
64 Corrections, Director of the Department of Youth and Family Services, or principal executive officer of
65 any state or other institution or agency who consents to surgical or medical treatment of a minor in
66 accordance with this section shall make a reasonable effort to notify the minor's parent or guardian of
67 such action as soon as practicable.

68 *H. Nothing in this section shall be construed to deny access to the medical, hospital or other health*
69 *records of a minor to either parent of the minor unless otherwise ordered by a court of competent*
70 *jurisdiction for good cause shown.*

71 § 54.1-2969. (Delayed effective date - See notes) Authority to consent to surgical and medical
72 treatment of certain minors.

73 A. Whenever any minor who has been separated from the custody of his parent or guardian is in
74 need of surgical or medical treatment, authority commensurate with that of a parent in like cases is
75 conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

76 1. Upon judges with respect to minors whose custody is within the control of their respective courts.

77 2. Upon local superintendents of public welfare or social services or their designees with respect to
78 (i) minors who are committed to the care and custody of the local board by courts of competent
79 jurisdiction, (ii) minors who are taken into custody pursuant to § 63.1-248.9 and (iii) minors who are
80 entrusted to the local board by the parent, parents or guardian, when the consent of the parent or
81 guardian cannot be obtained immediately and, in the absence of such consent, a court order for such
82 treatment cannot be obtained immediately.

83 3. Upon the Director of the Department of Corrections or the Director of the Department of Youth
84 and Family Services or his designees with respect to any minor who is sentenced or committed to his
85 custody.

86 4. Upon the principal executive officers of state institutions with respect to the wards of such
87 institutions.

88 5. Upon the principal executive officer of any other institution or agency legally qualified to receive
89 minors for care and maintenance separated from their parents or guardians, with respect to any minor
90 whose custody is within the control of such institution or agency.

91 6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or
92 other charge under disability.

93 B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or
94 medical treatment is unobtainable because such parent or guardian is not a resident of this
95 Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable
96 under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the
97 purpose of giving consent to such surgical or medical treatment, upon judges of family courts.

98 C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such
99 minor's recovery and no person authorized in this section to consent to such treatment for such minor is
100 available within a reasonable time under the circumstances, no liability shall be imposed upon a licensed
101 health professional or licensed hospital by reason of lack of consent to such medical or surgical
102 treatment. However, in the case of a minor fourteen years of age or older who is physically capable of
103 giving consent, such consent shall be obtained first.

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106 infectious or contagious disease which the State Board of Health requires to be reported;

107 2. Medical or health services required in case of birth control, pregnancy or family planning except
108 for the purposes of sexual sterilization;

109 3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for
110 substance abuse as defined in § 37.1-203;

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112 mental illness or emotional disturbance.

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116 donate blood and may donate blood if such minor meets donor eligibility requirements. However,
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118 minor receives no consideration for his blood donation and the procurer of the blood is a nonprofit,
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122 any state or other institution or agency who consents to surgical or medical treatment of a minor in
123 accordance with this section shall make a reasonable effort to notify the minor's parent or guardian of
124 such action as soon as practicable.

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