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## HOUSE BILL NO. 735

Offered January 22, 1996

A BILL to amend and reenact § 32.1-283.1 of the Code of Virginia, relating to prehospital patient care reporting.

Patron—Crouch

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-283.1 of the Code of Virginia is amended and reenacted as follows:**

§ 32.1-283.1. State Child Fatality Review Team established; membership; access to and maintenance of records; confidentiality; etc.

A. There is hereby created the State Child Fatality Review Team, hereinafter referred to as the "Team," which shall develop and implement procedures to ensure that child deaths occurring in Virginia are analyzed in a systematic way. The Team shall review (i) violent and unnatural child deaths, (ii) sudden child deaths occurring within the first eighteen months of life, and (iii) those fatalities for which the cause or manner of death was not determined with reasonable medical certainty. No child death review shall be initiated by the Team until conclusion of any law-enforcement investigation or criminal prosecution. The Team shall (i) develop and revise as necessary operating procedures for the review of child deaths, including identification of cases to be reviewed and procedures for coordination among the agencies and professionals involved, (ii) improve the identification, data collection, and record keeping of the causes of child death, (iii) recommend components for prevention and education programs, (iv) recommend training to improve the investigation of child deaths, and (v) provide technical assistance, upon request, to any local child fatality teams that may be established. The operating procedures for the review of child deaths shall be exempt from the Administrative Process Act (§ 9-6.14:1 et seq.) pursuant to subdivision 17 of subsection B of § 9-6.14:4.1.

B. The sixteen-member Team shall be chaired by the Chief Medical Examiner and shall be composed of the following persons or their designees: the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services; the Director of Child Protective Services within the Department of Social Services; the Superintendent of Public Instruction; the State Registrar of Vital Records; and the Director of the Department of Criminal Justice Services. In addition, one representative from each of the following entities shall be appointed by the Governor to serve for a term of three years: local law-enforcement agencies, local fire departments, local departments of social services, the Medical Society of Virginia, the Virginia College of Emergency Physicians, the Virginia Pediatric Society, Virginia Sudden Infant Death Syndrome Alliance, local emergency medical services personnel, Commonwealth's attorneys, and community services boards.

C. Upon the request of the Chief Medical Examiner in his capacity as chair of the Team, made after the conclusion of any law-enforcement investigation or prosecution, information and records regarding a child whose death is being reviewed by the Team may be inspected and copied by the Chief Medical Examiner or his designee, including, but not limited to, any report of the circumstances of the event maintained by any state or local law-enforcement agency or medical examiner, and information or records maintained on such child by any school, social services agency or court. Information, records or reports maintained by any Commonwealth's Attorney shall be made available for inspection and copying by the Chief Medical Examiner pursuant to procedures which shall be developed by the Chief Medical Examiner and the Commonwealth's Attorneys' Services Council established by § 2.1-64.28:1. In addition, the Chief Medical Examiner may inspect and copy from any Virginia health care provider, on behalf of the Team, (i) without obtaining consent, the health and mental health records of the child and those perinatal medical records of the child's mother that related to such child, and (ii) upon obtaining consent from each adult regarding his personal records, or from a parent regarding the records of a minor child, the health and mental health records of the child's family. All such information and records shall be confidential and shall be excluded from the Virginia Freedom of Information Act (§ 2.1-340 et seq.) pursuant to subdivision 59 of subsection B of § 2.1-342. Upon the conclusion of the child death review, all information and records concerning the child and the child's family shall be shredded or otherwise destroyed by the Chief Medical Examiner in order to ensure confidentiality. Such information or records shall not be subject to subpoena or discovery or be admissible in any criminal or civil proceeding. If available from other sources, however, such information and records shall not be immune from subpoena, discovery or introduction into evidence when obtained through such other sources solely because the information and records were presented to the Team during a child death review. Further,

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60 the findings of the Team may be disclosed or published in statistical or other form which shall not  
61 identify individuals. The portions of meetings in which individual child death cases are discussed by the  
62 Team shall be closed pursuant to subdivision 23 of subsection A of § 2.1-344. In addition to the  
63 requirements of § 2.1-344.1, all team members, persons attending closed team meetings, and persons  
64 presenting information and records on specific child deaths to the Team during closed meetings shall  
65 execute a sworn statement to honor the confidentiality of the information, records, discussions, and  
66 opinions disclosed during any closed meeting to review a specific child death. Violations of this  
67 subsection shall be punishable as a Class 3 misdemeanor.

68 D. Upon notification of a child death, any state or local government agency maintaining records on  
69 such child or such child's family which are periodically purged shall retain such records for the longer  
70 of twelve months or until such time as the State Child Fatality Review Team has completed its child  
71 death review of the specific case.

72 E. The Team shall compile annual data which shall be made available to the Governor and the  
73 General Assembly as requested. These statistical data compilations shall not contain any personally  
74 identifying information and shall be public records.

75 *F. Notwithstanding the provisions of this section to the contrary, all licensed emergency medical*  
76 *services agencies shall collect minimum data concerning prehospital patient care in response to*  
77 *emergency calls involving minors. Such minimum data shall include, but not be limited to, the type of*  
78 *call, the response time, the treatment provided, the nature of the call and other information as*  
79 *prescribed by the Board, in accordance with the provisions of § 32.1-116.1, relating to the filing of*  
80 *prehospital patient care reporting. Any emergency medical services agency responding to a request for*  
81 *emergency medical services involving a minor when the result of the medical emergency is death, shall*  
82 *provide, upon written request, any law-enforcement agency or other investigating officials, a copy of the*  
83 *minimum data information. Any emergency medical technician who provides such information shall not*  
84 *be liable for any civil damages for any acts or omissions resulting from the good-faith rendering of*  
85 *such information to authorized law-enforcement agencies or other investigative officials. All minimum*  
86 *data, including the prehospital run report, collected or prepared by an emergency medical services*  
87 *technician in response to a request for emergency medical services when the result of the medical*  
88 *emergency is a child fatality shall become a part of such child's medical records when an investigation*  
89 *is performed, and such records shall be reviewed by all investigating officials as a part of the*  
90 *investigation.*