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SENATE BILL NO. 478

Senate Amendments in [] — February 13, 1996

A BILL to amend and reenact § 16.1-305 of the Code of Virginia, as it is currently effective and as it may become effective, and § 19.2-389.1 of the Code of Virginia, relating to access to juvenile records.

Patrons—Gartlan, Benedetti, Earley, Goode, Holland, Marsh and Stolle; Delegates: Almand, Croshaw, Forbes, Watts and Woodrum

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-305 of the Code of Virginia, as it is currently effective and as it may become effective, and § 19.2-389.1 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-305. Confidentiality of court records.

A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records, of neglected and abused children, children in need of services and delinquent children shall be filed with the other papers in the juvenile's case file. All juvenile case files shall be filed separately from adult files and records of the court and shall be open for inspection only to the following:

1. The judge, probation officers and professional staff assigned to serve the juvenile and domestic relations district courts;

2. Representatives of a public or private agency or department providing supervision or having legal custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;

3. The attorney for any party;

4. Any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court; however, for the purposes of preparation of a presentence report upon a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board, adult probation and parole officers, including United States Probation and Pretrial Services Officers, shall have access to an accused's or inmate's records in juvenile court *and for the purpose of preparing the discretionary sentencing guidelines worksheets as directed by the court pursuant to § 19.2-298.01, the attorney for the Commonwealth and the probation [and parole] officer shall have access to the defendant's records in juvenile court.*

B. All or any part of the records enumerated in subsection A, or information secured from such records, which is presented to the judge in court or otherwise in a proceeding under this law shall also be made available to the parties to the proceedings and their attorneys.

C. All other juvenile records, including the docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by those persons and agencies designated in subsections A and B of this section.

D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles, which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding and that such papers will be only used for such evidentiary purpose.

E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an award to the victim of a crime, and such information shall not be disseminated or used by the Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

F. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the disposition in a case involving a juvenile who is committed to state care after being adjudicated for a criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a written request, the Department of Youth and Family Services shall provide advance notice of such juvenile offender's anticipated date of release from commitment.

§ 16.1-305. (Delayed effective date) Confidentiality of court records.

A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records, of neglected and abused children, children in need of services and delinquent children shall be filed with the other papers in the juvenile's case file.

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60 All juvenile case files shall be filed separately from adult files and records of the court and shall be
61 open for inspection only to the following:

- 62 1. The judge, probation officers and professional staff assigned to serve the family courts;
- 63 2. Representatives of a public or private agency or department providing supervision or having legal
64 custody of the child or furnishing evaluation or treatment of the child ordered or requested by the court;
- 65 3. The attorney for any party;
- 66 4. Any other person, agency or institution, by order of the court, having a legitimate interest in the
67 case or in the work of the court; however, for the purposes of preparation of a presentence report upon
68 a finding of guilty in a circuit court or for the preparation of a background report for the Parole Board,
69 adult probation and parole officers, including United States Probation and Pretrial Services Officers,
70 shall have access to an accused's or inmate's records in family court *and for the purpose of preparing*
71 *the discretionary sentencing guidelines worksheets as directed by the court pursuant to § 19.2-298.01,*
72 *the attorney for the Commonwealth and the probation and parole officer shall have access to the*
73 *defendant's records in juvenile court.*

74 B. All or any part of the records enumerated in subsection A, or information secured from such
75 records, which is presented to the judge in court or otherwise in a proceeding under this law shall also
76 be made available to the parties to the proceedings and their attorneys.

77 C. All other juvenile records, including the docket, petitions, motions and other papers filed with a
78 case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by
79 those persons and agencies designated in subsections A and B of this section.

80 D. Attested copies of papers filed in connection with an adjudication of guilty for an offense for
81 which the clerk is required by § 46.2-383 to furnish an abstract to the Department of Motor Vehicles,
82 which shows the charge, finding, disposition, name of the attorney for the juvenile, or waiver of attorney
83 shall be furnished to an attorney for the Commonwealth upon certification by the prosecuting attorney
84 that such papers are needed as evidence in a pending criminal, traffic, or habitual offender proceeding
85 and that such papers will be only used for such evidentiary purpose.

86 E. Upon request, a copy of the court order of disposition in a delinquency case shall be provided to
87 the Virginia Workers' Compensation Commission solely for purposes of determining whether to make an
88 award to the victim of a crime, and such information shall not be disseminated or used by the
89 Commission for any other purpose including but not limited to actions pursuant to § 19.2-368.15.

90 F. Section 20-124 shall govern the confidentiality of court records in cases involving divorce,
91 annulment or affirmation of marriage, separate maintenance and equitable distribution based on a foreign
92 decree. Sections 63.1-235 and 63.1-236 shall govern the confidentiality of adoption cases.

93 G. Staff of the court services unit or the attorney for the Commonwealth shall provide notice of the
94 disposition in a case involving a juvenile who is committed to state care after being adjudicated for a
95 criminal sexual assault as specified in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2 to the
96 victim or a parent of a minor victim, upon request. Additionally, if the victim or parent submits a
97 written request, the Department of Youth and Family Services shall provide advance notice of such
98 juvenile offender's anticipated date of release from commitment.

99 § 19.2-389.1. Dissemination of juvenile record information.

100 Record information maintained in the Central Criminal Records Exchange pursuant to the provisions
101 of § 16.1-299 shall be disseminated only (i) to make the determination as provided in §§ 18.2-308.2 and
102 18.2-308.2:2 of eligibility to possess or purchase a firearm, (ii) to aid in the preparation of a
103 pre-sentence or post-sentence investigation report pursuant to § 19.2-264.5 or § 19.2-299 *or in the*
104 *preparation of the discretionary sentencing guidelines worksheets pursuant to subsection C of*
105 *§ 19.2-298.01,* (iii) to aid all court service units serving juvenile delinquent offenders, and (iv) for
106 fingerprint comparison utilizing the fingerprints maintained in the Automated Fingerprint Information
107 System (AFIS) computer.