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HOUSE BILL NO. 2439

Offered January 21, 1999

A BILL to amend and reenact § 63.1-55.3 of the Code of Virginia, relating to adult protective services.

Patron—Tate

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 63.1-55.3 of the Code of Virginia is amended and reenacted as follows:**

§ 63.1-55.1. Protective services for aged and infirm persons.

Each local board, to the extent that federal or state matching funds are made available to each locality, shall provide, subject to supervision of the Commissioner and in accordance with rules prescribed by the State Board, protective services for persons who *are found to be abused, neglected or exploited and who meet one of the following criteria: (i) the person is sixty years of age or older or (ii) the person, by reason of advanced age, impaired health, or physical or mental disability cannot, unaided, take care of themselves himself or their his* affairs and *have has* no relative or other person able, available and willing to provide guidance, supervision or other needed care *and for persons sixty years of age and older who are abused, neglected or exploited*. 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 § 63.1-55.5.

§ 63.1-55.3. Protection of aged or incapacitated adults; physicians, nurses, etc., to report abuse, neglect or exploitation of adults; complaint by others; penalty for failure to report.

A. Any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed by a public or private agency or facility and working with adults, any person providing full-time or part-time care to adults for pay on a regularly scheduled basis, any person employed as a social worker, any mental health professional and any law-enforcement officer, in his professional or official capacity, who has reason to suspect that an adult is an abused, neglected or exploited adult, shall report the matter immediately to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred. If neither locality is known, then the report shall be made to the local department of the county or city where the abuse, neglect, or exploitation was discovered. If the information is received by a staff member, resident, intern or nurse in the course of professional services in a hospital or similar institution, such person may, in place of the report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith. Any person required to make the report or notification required by this subsection shall do so either orally or in writing and shall disclose all information which is the basis for the suspicion of abuse, neglect or exploitation of the adult. ~~and, upon~~ *Upon request, any person required to make the report shall make available to the adult protective services worker and the local department investigating the reported case of abuse, neglect or exploitation any information, records or reports which document the basis for the report. All persons required to report suspected abuse, neglect or exploitation who maintain a record of a person who is the subject of such a report shall cooperate with the investigating adult protective services worker of a local department and shall make information, records and reports which are relevant to the investigation available to such worker.*

B. The report required by subsection A shall be reduced to writing within seventy-two hours by the director of the local department on a form prescribed by the State Board of Social Services.

C. Any person required to make a report pursuant to subsection A who has reason to suspect that an adult has been sexually abused as that term is defined in § 18.2-67.10, and any person in charge of a hospital or similar institution, or a department thereof, who receives such information from a staff member, resident, intern or nurse, also shall immediately report the matter, either orally or in writing, to the local law-enforcement agency where the adult resides or the sexual abuse is believed to have occurred, or if neither locality is known, then where the abuse was discovered. The person making the report shall disclose and, upon request, make available to the law-enforcement agency all information forming the basis of the report.

D. Any person other than those specified in subsection A who suspects that an adult is an abused, neglected or exploited adult may report the matter to the local department of the county or city wherein the adult resides or wherein the abuse, neglect or exploitation is believed to have occurred. Such a complaint may be oral or in writing.

E. Any person who makes a report or provides records or information pursuant to subsection A or D

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60 of this section or who testifies in any judicial proceeding arising from such report, records or
61 information shall be immune from any civil or criminal liability on account of such report, records,
62 information or testimony, unless such person acted in bad faith or with a malicious purpose.

63 F. All law-enforcement departments and other state and local departments, agencies, authorities and
64 institutions shall cooperate with each adult protective services worker of a local department in the
65 detection and prevention of abuse, neglect or exploitation of adults.

66 G. Any person who is found guilty of failing to make a required report or notification pursuant to
67 subsection A or C of this section, within 24 hours of having the reason to suspect abuse shall be fined
68 not more than \$500 for the first failure and not less than \$100 nor more than \$1,000 for any subsequent
69 failures.