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SENATE BILL NO. 569

Offered January 11, 2006

Prefiled January 11, 2006

A BILL to amend and reenact § 20-124.3:1 of the Code of Virginia, relating to custody and visitation; admissibility of mental health records.

Patron—McDougle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 20-124.3:1 of the Code of Virginia is amended and reenacted as follows:

§ 20-124.3:1. Custody and visitation; mental health care records; admissibility.

A. Notwithstanding any other provision of law, in any case in which custody or visitation of a minor child is at issue pursuant to § 20-124.2, whether in a circuit or district court, the records concerning a parent, kept by any licensed mental health care provider and any information obtained during or from therapy shall be privileged and confidential unless disclosure is ordered by the court for good cause shown.

B. In any case in which custody or visitation of a minor child is at issue pursuant to § 20-124.2, whether in a circuit or district court, a mental health care provider licensed in the Commonwealth may not be required to testify on behalf of or against a parent or any of the parent's adult relatives, and may do so only with the advance written consent of the parent or by court order for good cause shown. If the mental health care provider testifies, such testimony shall be limited to the custody or visitation case in question, and the provider's records and notes regarding that parent shall be admissible in the court proceeding. However, the court may order a licensed mental health care provider to testify on matters specifically related and limited to suspicion of an abused or neglected child as defined in § 63.2-100 of the Code of Virginia.

C. Nothing in this section shall supercede the provisions of § 63.2-1509 of the Code of Virginia related to the required reporting of suspicion of an abused or neglected child.

D. This section shall not apply to mental health care providers serving as a child's therapist, serving as a co-parenting counselor who is engaged in family counseling or who have conducted or are conducting an independent mental health evaluation pursuant to a court order.

INTRODUCED

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