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## HOUSE BILL NO. 1587

Offered January 14, 2015

Prefiled January 8, 2015

*A BILL to amend and reenact § 32.1-45.1 of the Code of Virginia, relating to deemed consent for blood testing; school board personnel.*

Patron—Landes

Referred to Committee on Education

**Be it enacted by the General Assembly of Virginia:****1. That § 32.1-45.1 of the Code of Virginia is amended and reenacted as follows:****§ 32.1-45.1. Deemed consent to testing and release of test results related to infection with human immunodeficiency virus or hepatitis B or C viruses.**

A. Whenever any health care provider, or any person employed by or under the direction and control of a health care provider, is directly exposed to body fluids of a patient in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the patient whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such patient shall also be deemed to have consented to the release of such test results to the person who was exposed. In other than emergency situations, it shall be the responsibility of the health care provider to inform patients of this provision prior to providing them with health care services which create a risk of such exposure.

B. Whenever any patient is directly exposed to body fluids of a health care provider, or of any person employed by or under the direction and control of a health care provider, in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the patient who was exposed.

C. For the purposes of this section, "health care provider" means any person, facility or agency licensed or certified to provide care or treatment by the Department of Health, Department of Behavioral Health and Developmental Services, Department of Rehabilitative Services, or the Department of Social Services, any person licensed or certified by a health regulatory board within the Department of Health Professions except for the Boards of Funeral Directors and Embalmers and Veterinary Medicine or any personal care agency contracting with the Department of Medical Assistance Services.

D. "Health care provider," as defined in subsection C of this section, shall be deemed to include any person who renders emergency care or assistance, without compensation and in good faith, at the scene of an accident, fire, or any life-threatening emergency, or while en route therefrom to any hospital, medical clinic or doctor's office during the period while rendering such emergency care or assistance. The Department of Health shall provide appropriate counseling and opportunity for face-to-face disclosure of any test results to any such person.

E. Whenever any law-enforcement officer, salaried or volunteer firefighter, paramedic or emergency medical technician is directly exposed to body fluids of a person in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have consented to the release of such test results to the person who was exposed.

F. Whenever a person is directly exposed to the body fluids of a law-enforcement officer, salaried or volunteer firefighter, paramedic or emergency medical technician in a manner that may, according to the then current guidelines of the Centers for Disease Control and Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body fluids were involved in the exposure shall be deemed to have consented to testing for infection with human immunodeficiency virus or hepatitis B or C viruses. The law-enforcement officer, salaried or volunteer firefighter, paramedic or emergency medical technician shall also be deemed to have consented to the release of such test results to the person who was exposed.

G. For the purposes of this section, "law-enforcement officer" means a person who is both (i) engaged in his public duty at the time of such exposure and (ii) employed by any sheriff's office, any

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59 adult or youth correctional facility, or any state or local law-enforcement agency, or any agency or  
60 department under the direction and control of the Commonwealth or any local governing body that  
61 employs persons who have law-enforcement authority.

62 H. Whenever any school board employee is directly exposed to body fluids of any person in a  
63 manner that may, according to the then current guidelines of the Centers for Disease Control and  
64 Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the person whose body  
65 fluids were involved in the exposure shall be deemed to have consented to testing for infection with  
66 human immunodeficiency virus or hepatitis B or C viruses. Such person shall also be deemed to have  
67 consented to the release of such test results to the school board employee who was exposed. In other  
68 than emergency situations, it shall be the responsibility of the school board employee to inform the  
69 person of this provision prior to the contact that creates a risk of such exposure.

70 *For purposes of this subsection, if the person whose blood specimen is sought for testing is a minor,*  
71 *the minor shall not be deemed to have consented to testing, and consent for obtaining such specimen*  
72 *shall be obtained from the parent, guardian, or person standing in loco parentis of such minor prior to*  
73 *initiating such testing. If the parent or guardian or person standing in loco parentis withholds such*  
74 *consent, or is not reasonably available, the person potentially exposed to the human immunodeficiency*  
75 *virus or hepatitis B or C viruses, or the employer of such person, may petition the juvenile and domestic*  
76 *relations district court in the county or city where the minor resides or resided, or, in the case of a*  
77 *nonresident, the county or city where the school board has its principal office for an order requiring the*  
78 *minor to provide a blood specimen or to submit to testing and to disclose the test results in accordance*  
79 *with this section.*

80 I. Whenever any person is directly exposed to the body fluids of a school board employee in a  
81 manner that may, according to the then current guidelines of the Centers for Disease Control and  
82 Prevention, transmit human immunodeficiency virus or hepatitis B or C viruses, the school board  
83 employee whose body fluids were involved in the exposure shall be deemed to have consented to testing  
84 for infection with human immunodeficiency virus or hepatitis B or C viruses. The school board  
85 employee shall also be deemed to have consented to the release of such test results to the person.

86 J. For the purposes of this section, "school board employee" means a person who is both (i) acting in  
87 the course of employment at the time of such exposure and (ii) employed by any local school board in  
88 the Commonwealth.

89 K. For purposes of this section, *except as provided in subsection H*, if the person whose blood  
90 specimen is sought for testing is a minor, and that minor refuses to provide such specimen, consent for  
91 obtaining such specimen shall be obtained from the parent, guardian, or person standing in loco parentis  
92 of such minor prior to initiating such testing. If the parent or guardian or person standing in loco  
93 parentis withholds such consent, or is not reasonably available, the person potentially exposed to the  
94 human immunodeficiency virus or hepatitis B or C viruses, or the employer of such person, may petition  
95 the juvenile and domestic relations district court in the county or city where the minor resides or  
96 resided, or, in the case of a nonresident, the county or city where the health care provider, *or*  
97 law-enforcement agency ~~or school board~~ has its principal office or, in the case of a health care provider  
98 rendering emergency care pursuant to subsection D, the county or city where the exposure occurred, for  
99 an order requiring the minor to provide a blood specimen or to submit to testing and to disclose the test  
100 results in accordance with this section.

101 L. Except as provided in subsection K, if the person whose blood specimen is sought for testing  
102 refuses to provide such specimen, any person potentially exposed to the human immunodeficiency virus  
103 or hepatitis B or C viruses, or the employer of such person, may petition the general district court of the  
104 county or city in which the person whose specimen is sought resides or resided, or, in the case of a  
105 nonresident, the county or city where the health care provider, law-enforcement agency or school board  
106 has its principal office or, in the case of a health care provider rendering emergency care pursuant to  
107 subsection D, the county or city where the exposure occurred, for an order requiring the person to  
108 provide a blood specimen or to submit to testing and to disclose the test results in accordance with this  
109 section. At any hearing before the court, the person whose specimen is sought or his counsel may  
110 appear. The court shall be advised by the Commissioner or his designee prior to entering any testing  
111 order. If a testing order is issued, both the petitioner and the person from whom the blood specimen is  
112 sought shall receive counseling and opportunity for face-to-face disclosure of any test results by a  
113 licensed practitioner or trained counselor.