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HOUSE BILL NO. 1866

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice
on January 22, 2021)

(Patron Prior to Substitute—Delegate Delaney)

A *BILL to amend and reenact §§ 9.1-153 and 9.1-156 of the Code of Virginia, relating to court-appointed special advocates; information sharing.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-153 and 9.1-156 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-153. Volunteer court-appointed special advocates; powers and duties; assignment; qualifications; training.

A. Services in each local court-appointed special advocate program shall be provided by volunteer court-appointed special advocates, hereinafter referred to as advocates. The advocate's duties shall include:

1. Investigating the case to which he is assigned to provide independent factual information to the court.

2. Submitting to the court of a written report of his investigation in compliance with the provisions of § 16.1-274. The report may, upon request of the court, include recommendations as to the child's welfare.

3. Monitoring the case to which he is assigned to ensure compliance with the court's orders.

4. Assisting ~~any appointed~~ *the* guardian ad litem *appointed* to represent the child in providing effective representation of the child's needs and best interests.

5. Reporting a suspected abused or neglected child pursuant to § 63.2-1509.

B. The advocate is not a party to the case to which he is assigned and shall not call witnesses or examine witnesses. The advocate shall not, with respect to the case to which he is assigned, provide legal counsel or advice to any person, appear as counsel in court or in proceedings which are part of the judicial process, or engage in the unauthorized practice of law. The advocate may testify if called as a witness.

C. The program director shall assign an advocate to a child when requested to do so by the judge of the juvenile and domestic relations district court having jurisdiction over the proceedings. The advocate shall continue his association with each case to which he is assigned until relieved of his duties by the court or by the program director. *The program director may assign an advocate to attend and participate in family partnership meetings as defined by the Department of Social Services and in meetings of family assessment and planning teams established pursuant to § 2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5, individualized education program teams established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter 13 of Title 22.1, and multidisciplinary teams established pursuant to §§ 63.2-1503 and 63.2-1505.*

D. The Department shall adopt regulations governing the qualifications of advocates who for purposes of administering this subsection shall be deemed to be criminal justice employees. The regulations shall require that an advocate be at least twenty-one years of age and that the program director shall obtain with the approval of the court (i) a copy of his criminal history record or certification that no conviction data are maintained on him and (ii) a copy of information from the central registry maintained pursuant to § 63.2-1515 on any investigation of child abuse or neglect undertaken on him or certification that no such record is maintained on him. Advocates selected prior to the adoption of regulations governing qualifications shall meet the minimum requirements set forth in this article.

E. An advocate shall have no associations which create a conflict of interests or the appearance of such a conflict with his duties as an advocate. No advocate shall be assigned to a case of a child whose family has a professional or personal relationship with the advocate. Questions concerning conflicts of interests shall be determined in accordance with regulations adopted by the Department.

F. No applicant shall be assigned as an advocate until successful completion of a program of training required by regulations. The Department shall set standards for both basic and ongoing training.

§ 9.1-156. Inspection and copying of records by advocate; confidentiality of records.

A. Upon presentation by the advocate of the order of his appointment and upon specific court order, any state or local agency, department, authority, or institution, and any hospital, school, physician, or other health or mental health care provider shall permit the advocate to inspect and copy, without the consent of the child or his parents, any records relating to the child involved in the case. Upon the advocate presenting to the mental health provider the order of the advocate's appointment and, upon specific court order, in lieu of the advocate inspecting and copying any related records of the child

60 involved, the mental health care provider shall be available within seventy-two hours to conduct for the
61 advocate a review and an interpretation of the child's treatment records which are specifically related to
62 the investigation.

63 B. An advocate shall not disclose the contents of any document or record to which he becomes
64 privy, which is otherwise confidential pursuant to the provisions of this Code, except (i) upon order of a
65 court of competent jurisdiction or (ii) *if the advocate has been assigned pursuant to subsection C of*
66 *§ 9.1-153 to attend and participate in family partnership meetings as defined by the Department of*
67 *Social Services or in meetings of family assessment and planning teams established pursuant to*
68 *§ 2.2-5208, multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5,*
69 *individualized education program teams established pursuant to Article 2 (§ 22.1-213 et seq.) of Chapter*
70 *13 of Title 22.1, or multidisciplinary teams established pursuant to §§ 63.2-1503 and 63.2-1505, the*
71 *advocate may verbally disclose any information contained in such document or record related to the*
72 *child to which he is assigned at such meetings, provided that such information shall not be disclosed*
73 *further.*