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## HOUSE BILL NO. 1065

Offered January 26, 1998

A *BILL to amend and reenact §§ 63.1-53 and 63.1-55.4 of the Code of Virginia, relating to confidentiality of records.*

Patron—Griffith (By Request)

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 63.1-53 and 63.1-55.4 of the Code of Virginia are amended and reenacted as follows:**

§ 63.1-53. Allowing access to records; penalty.

All records and statistical registries of the State Department of Social Services and of the local boards and other information, which records, registries and information pertain to assistance and services provided any individual, shall be confidential and shall not be disclosed except to persons having a legitimate interest and persons specified hereinafter and in §§ 63.1-55.4 and 63.1-209. Upon receipt of a request and documentation of an indictment or issuance of a warrant, local boards and the State Department of Social Services may disclose from client records to the extent permitted by federal law, to the requesting law-enforcement agency, the address of an individual who has been indicted or for whom a warrant for arrest for a crime punishable by incarceration has been issued. The local boards shall allow the Commissioner, the Commissioner of the Virginia Department for the Visually Handicapped, and duly authorized agents and employees of each, at all times, to have access to the records of the local boards relating to the appropriation, expenditure and distribution of funds for, and other matters concerning, assistance and services under this title.

Except as to the Commissioner, the Commissioner of the Virginia Department for the Visually Handicapped, and duly authorized agents and employees of each, records and credit information shall be made available as aforesaid only on an individual basis and the person, firm or corporation shall name the individual whose record is requested. No record shall be made available except for purposes directly connected with the administration of the public welfare program. No record shall be made available to any person filing a list or lists of employment opportunities with a local board or superintendent pursuant to the provisions of Chapter 6.2 (§ 63.1-133.7 et seq.) of this title. It shall be unlawful for any person, firm, corporation, or association to use any name or list of names obtained directly or indirectly through access to such records for commercial or political purposes, or to publish the name of any child receiving assistance under the provisions of § 63.1-56, and any person violating these provisions shall be guilty of a Class 1 misdemeanor and punished accordingly.

§ 63.1-55.4. Same; duty of director upon receiving report; confidentiality.

Any director of a department of social services or public welfare who receives a report that a person is in need of protective services shall make a prompt and thorough investigation to determine whether the person is in need of protective services and what services are needed. The investigation shall include a visit to the person and consultation with others having knowledge of the facts of the particular case. If the department is denied access to interview the person or denied entrance to the residence of the person believed to be an adult in need of protective services, the department may petition the circuit court for an order allowing access or entry or both. Upon a showing of good cause, the court may enter such order upon a petition supported by an affidavit or by sworn testimony in person which establishes that such department has received a report that the individual is in need of protective services and access to interview the person has been denied the department by a third party. After completing the investigation, the director shall make a written report of the case indicating whether he believes protective services are needed. If a report that a person is in need of protective services is unfounded, the director shall notify the individual making the report of this determination. If the director determines that the adult needs protective services according to the criteria set forth in subsection A of § 63.1-55.6, the director may petition the circuit court for an emergency order for protective services pursuant to § 63.1-55.6.

All reports, documentary evidence, and other information received or maintained by the director pursuant to this section shall be confidential and not subject to the Virginia Freedom of Information Act (§ 2.1-340 et seq.), except that such information may be disclosed *to researchers conducting bona fide research when the research can reasonably be expected to expand the knowledge base needed to increase the effectiveness of adult protective services* and to persons having a legitimate interest therein where disclosure of the information is reasonably necessary for the conduct of investigations by state or local government agencies or the provision of services to the individual who is the subject of the report, in accordance with regulations promulgated by the Board. Such regulations shall require that the Board

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HB1065

**60** receive appropriate assurances from the agencies to which the information is disclosed that it will be  
**61** held confidential except to the extent that disclosure is required by law.