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HOUSE BILL NO. 1542

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health and Human Services
on February 6, 2024)

(Patrons Prior to Substitute--Delegates Mundon King and Obenshain [HB 449])

A BILL to amend and reenact §§ 19.2-8 and 63.2-1509 of the Code of Virginia, relating to child abuse and neglect; mandatory reporters; statute of limitations; penalties.

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-8 and 63.2-1509 of the Code of Virginia are amended and reenacted as follows:

§ 19.2-8. Limitation of prosecutions.

A prosecution for a misdemeanor, or any pecuniary fine, forfeiture, penalty or amercement, shall be commenced within one year next after there was cause therefor, except that a prosecution for petit larceny may be commenced within five years, and for an attempt to produce abortion, within two years after commission of the offense.

A prosecution for any misdemeanor violation of § 54.1-3904 shall be commenced within two years of the discovery of the offense.

A prosecution for violation of laws governing the placement of children for adoption without a license pursuant to § 63.2-1701 shall be commenced within one year from the date of the filing of the petition for adoption.

A prosecution for any misdemeanor violation of § 63.2-1509 shall be commenced within one year of the discovery of the offense.

A prosecution for making a false statement or representation of a material fact knowing it to be false or knowingly failing to disclose a material fact, to obtain or increase any benefit or other payment under the Virginia Unemployment Compensation Act (§ 60.2-100 et seq.) shall be commenced within three years next after the commission of the offense.

26 A prosecution for any violation of § 10.1-1320, 62.1-44.32 (b), 62.1-194.1, or Article 11 (§ 62.1-
27 44.34:14 et seq.) of Chapter 3.1 of Title 62.1 that involves the discharge, dumping or emission of any
28 toxic substance as defined in § 32.1-239 shall be commenced within three years next after the commission
29 of the offense.

30 Prosecution of Building Code violations under § 36-106 shall commence within one year of
31 discovery of the offense by the building official, provided that such discovery occurs within two years of
32 the date of initial occupancy or use after construction of the building or structure, or the issuance of a
33 certificate of use and occupancy for the building or structure, whichever is later. However, prosecutions
34 under § 36-106 relating to the maintenance of existing buildings or structures as contained in the Uniform
35 Statewide Building Code shall commence within one year of the issuance of a notice of violation for the
36 offense by the building official.

37 Prosecution of any misdemeanor violation of § 54.1-111 shall commence within one year of the
38 discovery of the offense by the complainant, but in no case later than five years from occurrence of the
39 offense.

40 Prosecution of any misdemeanor violation of any professional licensure requirement imposed by
41 a locality shall commence within one year of the discovery of the offense by the complainant, but in no
42 case later than five years from occurrence of the offense.

43 Prosecution of nonfelonious offenses which constitute malfeasance in office shall commence
44 within two years next after the commission of the offense.

45 Prosecution for a violation for which a penalty is provided for by § 55.1-1989 shall commence
46 within three years next after the commission of the offense.

47 Prosecution of illegal sales or purchases of wild birds, wild animals and freshwater fish under §
48 29.1-553 shall commence within three years after commission of the offense.

49 Prosecution of violations under Title 58.1 for offenses involving false or fraudulent statements,
50 documents or returns, or for the offense of willfully attempting in any manner to evade or defeat any tax
51 or the payment thereof, or for the offense of willfully failing to pay any tax, or willfully failing to make

52 any return at the time or times required by law or regulations shall commence within three years next after
53 the commission of the offense, unless a longer period is otherwise prescribed.

54 Prosecution of violations of subsection A or B of § 3.2-6570 shall commence within five years of
55 the commission of the offense, except violations regarding agricultural animals shall commence within
56 one year of the commission of the offense.

57 A prosecution for a violation of § 18.2-386.1 shall be commenced within five years of the
58 commission of the offense.

59 A prosecution for any violation of the Campaign Finance Disclosure Act, Chapter 9.3 (§ 24.2-945
60 et seq.) of Title 24.2, shall commence within one year of the discovery of the offense but in no case more
61 than three years after the date of the commission of the offense.

62 A prosecution of a crime that is punishable as a misdemeanor pursuant to the Virginia Computer
63 Crimes Act (§ 18.2-152.1 et seq.) or pursuant to § 18.2-186.3 for identity theft shall be commenced before
64 the earlier of (i) five years after the commission of the last act in the course of conduct constituting a
65 violation of the article or (ii) one year after the existence of the illegal act and the identity of the offender
66 are discovered by the Commonwealth, by the owner, or by anyone else who is damaged by such violation.

67 A prosecution of a misdemeanor under § 18.2-64.2, 18.2-67.4, 18.2-67.4:1, 18.2-67.4:2, 18.2-67.5,
68 or 18.2-370.6 or clause (ii) of § 18.2-371 where the victim is a minor at the time of the offense shall be
69 commenced no later than one year after the victim reaches majority, unless the alleged offender of such
70 offense was an adult and more than three years older than the victim at the time of the offense, in which
71 instance such prosecution shall be commenced no later than five years after the victim reaches majority.

72 A prosecution for a violation of § 18.2-260.1 shall be commenced within three years of the
73 commission of the offense.

74 Nothing in this section shall be construed to apply to any person fleeing from justice or concealing
75 himself within or without the Commonwealth to avoid arrest or be construed to limit the time within which
76 any prosecution may be commenced for desertion of a spouse or child or for neglect or refusal or failure
77 to provide for the support and maintenance of a spouse or child.

78 § 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses,
79 teachers, etc.; penalty for failure to report.

80 A. The following persons who, in their professional or official capacity, have reason to suspect
81 that a child is an abused or neglected child, shall report the matter immediately to the local department of
82 the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred
83 or to the Department's toll-free child abuse and neglect hotline:

- 84** 1. Any person licensed to practice medicine or any of the healing arts;
- 85** 2. Any hospital resident or intern, and any person employed in the nursing profession;
- 86** 3. Any person employed as a social worker or family-services specialist;
- 87** 4. Any probation officer;
- 88** 5. Any teacher or other person employed in a public or private school, kindergarten, or child day
89 program, as that term is defined in § 22.1-289.02;
- 90** 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
- 91** 7. Any mental health professional;
- 92** 8. Any law-enforcement officer or animal control officer;
- 93** 9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
- 94** 10. Any professional staff person, not previously enumerated, employed by a private or state-
95 operated hospital, institution or facility to which children have been committed or where children have
96 been placed for care and treatment;
- 97** 11. Any person 18 years of age or older associated with or employed by any public or private
98 organization responsible for the care, custody or control of children;
- 99** 12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-
100 151 et seq.) of Chapter 1 of Title 9.1;
- 101** 13. Any person 18 years of age or older who has received training approved by the Department of
102 Social Services for the purposes of recognizing and reporting child abuse and neglect;
- 103** 14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility
104 for public assistance;

105 15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-
106 111.5, unless such provider immediately reports the matter directly to the attending physician at the
107 hospital to which the child is transported, who shall make such report forthwith;

108 16. Any athletic coach, director or other person 18 years of age or older employed by or
109 volunteering with a public or private sports organization or team;

110 17. Administrators or employees 18 years of age or older of public or private day camps, youth
111 centers and youth recreation programs;

112 18. Any person employed by a public or private institution of higher education other than an
113 attorney who is employed by a public or private institution of higher education as it relates to information
114 gained in the course of providing legal representation to a client;

115 19. Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization
116 or denomination usually referred to as a church, unless the information supporting the suspicion of child
117 abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in
118 a confidential manner or (ii) would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court;
119 and

120 20. Any person who engages in the practice of behavior analysis, as defined in § 54.1-2900.

121 If neither the locality in which the child resides nor where the abuse or neglect is believed to have
122 occurred is known, then such report shall be made to the local department of the county or city where the
123 abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.

124 If an employee of the local department is suspected of abusing or neglecting a child, the report
125 shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt
126 of such a report by the court, the judge shall assign the report to a local department that is not the employer
127 of the suspected employee for investigation or family assessment. The judge may consult with the
128 Department in selecting a local department to respond to the report or the complaint.

129 If the information is received by a teacher, staff member, resident, intern or nurse in the course of
130 professional services in a hospital, school or similar institution, such person may, in place of said report,
131 immediately notify the person in charge of the institution or department, or his designee, who shall make

132 such report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of
133 the institution or department, or his designee, pursuant to this subsection, such person shall notify the
134 teacher, staff member, resident, intern or nurse who made the initial report when the report of suspected
135 child abuse or neglect is made to the local department or to the Department's toll-free child abuse and
136 neglect hotline, and of the name of the individual receiving the report, and shall forward any
137 communication resulting from the report, including any information about any actions taken regarding the
138 report, to the person who made the initial report.

139 The initial report may be an oral report but such report shall be reduced to writing by the child
140 abuse coordinator of the local department on a form prescribed by the Board. Any person required to make
141 the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of
142 abuse or neglect of the child and, upon request, shall make available to the child-protective services
143 coordinator and the local department, which is the agency of jurisdiction, any information, records, or
144 reports that document the basis for the report. All persons required by this subsection to report suspected
145 abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with
146 the investigating agency and shall make related information, records and reports available to the
147 investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy
148 Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider
149 shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement
150 agencies shall not be further disseminated by the investigating agency nor shall they be subject to public
151 disclosure.

152 B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall, due
153 to the special medical needs of infants affected by substance exposure, include (i) a finding made by a
154 health care provider within six weeks of the birth of a child that the child was born affected by substance
155 abuse or experiencing withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made
156 by a health care provider within four years following a child's birth that the child has an illness, disease,
157 or condition that, to a reasonable degree of medical certainty, is attributable to maternal abuse of a
158 controlled substance during pregnancy; or (iii) a diagnosis made by a health care provider within four

159 years following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero
160 exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included
161 in the report along with the facts relied upon by the person making the report. Such reports shall not
162 constitute a per se finding of child abuse or neglect. If a health care provider in a licensed hospital makes
163 any finding or diagnosis set forth in clause (i), (ii), or (iii), the hospital shall require the development of a
164 written discharge plan under protocols established by the hospital pursuant to subdivision B 6 of § 32.1-
165 127.

166 C. Any person who makes a report or provides records or information pursuant to subsection A or
167 who testifies in any judicial proceeding arising from such report, records, or information shall be immune
168 from any civil or criminal liability or administrative penalty or sanction on account of such report, records,
169 information, or testimony, unless such person acted in bad faith or with malicious purpose.

170 D. Any person required to file a report pursuant to this section who fails to do so as soon as
171 possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or
172 neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than
173 \$1,000. In cases evidencing acts or attempted acts of rape, sodomy, aggravated sexual battery, or object
174 sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who
175 knowingly and intentionally fails to make the report required pursuant to this section ~~shall be~~ is guilty of
176 a Class 1 misdemeanor.

177 E. No person shall be required to make a report pursuant to this section if the person has actual
178 knowledge that the same matter has already been reported to the local department or the Department's toll-
179 free child abuse and neglect hotline.

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