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HOUSE BILL NO. 1239

Offered January 10, 2024

Prefiled January 10, 2024

A BILL to amend and reenact § 54.1-2969 of the Code of Virginia, relating to unaccompanied homeless youth; consent to surgical or medical care.

Patron—Willett

Referred to Committee on Health and Human Services

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2969 of the Code of Virginia is amended and reenacted as follows:

§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors.

A. Whenever any minor who has been separated from the custody of his parent or guardian is in need of surgical or medical treatment, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

1. Upon judges with respect to minors whose custody is within the control of their respective courts.

2. Upon local directors of social services or their designees with respect to (i) minors who are committed to the care and custody of the local board by courts of competent jurisdiction, (ii) minors who are taken into custody pursuant to § 63.2-1517, and (iii) minors who are entrusted to the local board by the parent, parents or guardian, when the consent of the parent or guardian cannot be obtained immediately and, in the absence of such consent, a court order for such treatment cannot be obtained immediately.

3. Upon the Director of the Department of Corrections or the Director of the Department of Juvenile Justice or his designees with respect to any minor who is sentenced or committed to his custody.

4. Upon the principal executive officers of state institutions with respect to the wards of such institutions.

5. Upon the principal executive officer of any other institution or agency legally qualified to receive minors for care and maintenance separated from their parents or guardians, with respect to any minor whose custody is within the control of such institution or agency.

6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or other charge under disability.

B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or medical treatment is unobtainable because such parent or guardian is not a resident of the Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, upon judges of juvenile and domestic relations district courts.

C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor's recovery and no person authorized in this section to consent to such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel as defined in § 32.1-111.1 at the scene of an accident, fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

D. Whenever delay in providing transportation to a minor from the scene of an accident, fire or other emergency prior to hospital admission may adversely affect such minor's recovery and no person authorized in this section to consent to such transportation for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon emergency medical services personnel as defined in § 32.1-111.1, by reason of lack of consent to such transportation. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

E. A minor shall be deemed an adult for the purpose of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported;

2. Medical or health services required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization;

3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse as defined in § 37.2-100; or

4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for mental illness or emotional disturbance.

A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of medical records related to subdivisions 1 through 4.

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59 F. Except for the purposes of sexual sterilization, any minor who is or has been married shall be deemed  
60 an adult for the purpose of giving consent to surgical and medical treatment.

61 G. A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and her  
62 child to surgical and medical treatment relating to the delivery of her child when such surgical or medical  
63 treatment is provided during the delivery of the child or the duration of the hospital admission for such  
64 delivery; thereafter, the minor mother of such child shall also be deemed an adult for the purpose of giving  
65 consent to surgical and medical treatment for her child.

66 H. Any minor 16 years of age or older may, with the consent of a parent or legal guardian, consent to  
67 donate blood and may donate blood if such minor meets donor eligibility requirements. However, parental  
68 consent to donate blood by any minor 17 years of age shall not be required if such minor receives no  
69 consideration for his blood donation and the procurer of the blood is a nonprofit, voluntary organization.

70 I. Any judge, local director of social services, Director of the Department of Corrections, Director of the  
71 Department of Juvenile Justice, or principal executive officer of any state or other institution or agency who  
72 consents to surgical or medical treatment of a minor in accordance with this section shall make a reasonable  
73 effort to notify the minor's parent or guardian of such action as soon as practicable.

74 J. Nothing in subsection G or L shall be construed to permit a minor to consent to an abortion without  
75 complying with § 16.1-241.

76 K. Nothing in subsection E shall prevent a parent, legal guardian or person standing in loco parentis from  
77 obtaining (i) the results of a minor's nondiagnostic drug test when the minor is not receiving care, treatment  
78 or rehabilitation for substance abuse as defined in § 37.2-100 or (ii) a minor's other health records, except  
79 when the minor's treating physician, clinical psychologist, clinical social worker, or licensed professional  
80 counselor has determined, in the exercise of his professional judgment, that the disclosure of health records to  
81 the parent, legal guardian, or person standing in loco parentis would be reasonably likely to cause substantial  
82 harm to the minor or another person pursuant to subsection B of § 20-124.6.

83 *L. Except for the purposes of sexual sterilization or abortion, a minor who is 14 years of age or older and*  
84 *who is an unaccompanied homeless youth as evidenced by a statement so stating and signed by (i) the head of*  
85 *any governmental agency or nonprofit organization that receives public or private funding to provide*  
86 *services to children or to homeless individuals or an employee of such agency or organization who is*  
87 *employed as a social worker at such agency or organization, (ii) an employee of any local education agency*  
88 *who serves as a liaison for homeless children and youth designated pursuant to 42 U.S.C. §*  
89 *11432(g)(1)(J)(ii), (iii) a school social worker or counselor, or (iv) an attorney representing the minor in any*  
90 *legal matter shall be deemed an adult for the purpose of consenting to surgical or medical examination or*  
91 *treatment, including dental examination and treatment, for himself or his minor child. No health care*  
92 *provider shall be liable for any civil or criminal action for providing surgical or medical examination or*  
93 *treatment, including dental examination or treatment, to an unaccompanied homeless youth or his minor*  
94 *child without first obtaining the consent of his parent or guardian provided in accordance with this section;*  
95 *however, such provider shall not, on the basis of this subsection alone, be relieved from liability for*  
96 *negligence in the diagnosis or treatment of an unaccompanied homeless youth. As used in this subsection,*  
97 *"unaccompanied homeless youth" means a homeless child or youth described in subdivision A 7 of § 22.1-3*  
98 *who is not in the physical custody of a parent or guardian.*