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SENATE BILL NO. 133

Offered January 14, 2026

Prefiled January 6, 2026

A BILL to amend and reenact § 63.2-1509 of the Code of Virginia, relating to abused or neglected child; prenatal substance abuse.

Patron—Locke

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

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

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

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

- 1. Any person licensed to practice medicine or any of the healing arts;
 - 2. Any hospital resident or intern, and any person employed in the nursing profession;
 - 3. Any person employed as a social worker or family-services specialist;
 - 4. Any probation officer;
 - 5. Any teacher or other person employed in a public or private school, kindergarten, or child day program, as that term is defined in § 22.1-289.02;
 - 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
 - 7. Any mental health professional;
 - 8. Any law-enforcement officer or animal control officer;
 - 9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
 - 10. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment;
 - 11. Any person 18 years of age or older associated with or employed by any public or private organization responsible for the care, custody or control of children;
 - 12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151 et seq.) of Chapter 1 of Title 9.1;
 - 13. Any person 18 years of age or older who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
 - 14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance;
 - 15. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith;
 - 16. Any athletic coach, director or other person 18 years of age or older employed by or volunteering with a public or private sports organization or team;
 - 17. Administrators or employees 18 years of age or older of public or private day camps, youth centers and youth recreation programs;
 - 18. Any person employed by a public or private institution of higher education other than an attorney who is employed by a public or private institution of higher education as it relates to information gained in the course of providing legal representation to a client;
 - 19. Any minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church, unless the information supporting the suspicion of child abuse or neglect (i) is required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court; and
 - 20. Any person who engages in the practice of behavior analysis, as defined in § 54.1-2900.
- If neither the locality in which the child resides nor where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department's toll-free child abuse and neglect hotline.
- If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a

59 report by the court, the judge shall assign the report to a local department that is not the employer of the
 60 suspected employee for investigation or family assessment. The judge may consult with the Department in
 61 selecting a local department to respond to the report or the complaint.

62 If the information is received by a teacher, staff member, resident, intern, or nurse in the course of
 63 professional services in a hospital, school, or similar institution, such person may, in place of said report,
 64 immediately notify the person in charge of the institution or department, or his designee, who shall make such
 65 report forthwith. If the initial report of suspected abuse or neglect is made to the person in charge of the
 66 institution or department, or his designee, pursuant to this subsection, such person shall notify the teacher,
 67 staff member, resident, intern, or nurse who made the initial report when the report of suspected child abuse
 68 or neglect is made to the local department or to the Department's toll-free child abuse and neglect hotline, and
 69 of the name of the individual receiving the report, and shall forward any communication resulting from the
 70 report, including any information about any actions taken regarding the report, to the person who made the
 71 initial report.

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

84 B. For purposes of subsection A, *in the case of an infant affected by in utero substance exposure, evidence*
 85 *of substance exposure in a pregnant or postpartum woman shall not solely be a "reason to suspect that a child*
 86 *is abused or neglected." shall, due to the special medical needs of infants affected by substance exposure,*
 87 *include*

88 *The local community services board shall be notified upon* (i) a finding made by a health care provider
 89 within six weeks of the birth of a child that the child was born affected by substance abuse or experiencing
 90 withdrawal symptoms resulting from in utero drug exposure; (ii) a diagnosis made by a health care provider
 91 within four years following a child's birth that the child has an illness, disease, or condition that, to a
 92 reasonable degree of medical certainty, is attributable to maternal abuse of a controlled substance during
 93 pregnancy; or (iii) a diagnosis made by a health care provider within four years following a child's birth that
 94 the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. *The local*
 95 *community services board shall provide the Department with aggregate data on the number of findings or*
 96 *diagnoses the local community services board is notified of.*

97 When "reason to suspect" is based upon this subsection, ~~such fact shall be evidence of harm or substantial~~
 98 *risk of harm to a child shall be documented and* included in the report along with the facts relied upon by the
 99 person making the report. Such reports shall not constitute a per se finding of child abuse or neglect. *A*
 100 *pregnant woman's adherence to substance use disorder treatment, as determined appropriate by such*
 101 *woman's health care provider, shall be included in such report.* If a health care provider in a licensed hospital
 102 makes any finding or diagnosis set forth in clause (i), (ii), or (iii), the hospital shall require the development
 103 of a written discharge plan under protocols established by the hospital pursuant to subdivision B 6 of
 104 § 32.1-127.

105 *Prior to conducting toxicology or cord blood testing of a child or pregnant or postpartum woman that is*
 106 *not medically necessary for the immediate medical care of the woman or child, a health care provider shall*
 107 *(a) inform the woman of (1) the purpose of the testing and of any mandatory reporting requirements; (2) any*
 108 *required documentation of the test results; and (3) health records privacy rights, including such rights*
 109 *established pursuant to § 32.1-127.1:03 and the implications of waiving such rights, and (b) obtain informed*
 110 *consent from the woman. Nothing in this subsection shall be construed to require a health care provider to*
 111 *conduct toxicology or cord blood testing of a child or pregnant or postpartum woman. Any health care*
 112 *provider who does not perform such testing shall be presumed to be acting in good faith and shall be immune*
 113 *from any civil or criminal liability or administrative penalty or sanction on account of such action.*

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

118 D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but
 119 not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be
 120 fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases

121 evidencing acts or attempted acts of rape, sodomy, aggravated sexual battery, or object sexual penetration as
122 defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally
123 fails to make the report required pursuant to this section is guilty of a Class 1 misdemeanor.
124 E. No person shall be required to make a report pursuant to this section if the person has actual knowledge
125 that the same matter has already been reported to the local department or the Department's toll-free child
126 abuse and neglect hotline.

INTRODUCED

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