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## SENATE BILL NO. 794

AMENDMENT IN THE NATURE OF A SUBSTITUTE  
 (Proposed by the Senate Committee for Courts of Justice  
 on February 4, 2026)

(Patron Prior to Substitute—Senator Perry)

*A BILL to amend and reenact §§ 8.01-412.10, 19.2-88, 19.2-99, 19.2-100, 19.2-273, and 19.2-274 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 19.2-87.1 and by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-382, relating to Virginia Health Care Protection Act established; prohibition on extradition for certain crimes; penalties.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-412.10, 19.2-88, 19.2-99, 19.2-100, 19.2-273, and 19.2-274 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 19.2-87.1 and by adding in Title 32.1 a chapter numbered 21, consisting of sections numbered 32.1-376 through 32.1-382, as follows:

**§ 8.01-412.10. Issuance of subpoena.**

A. To request the issuance of a subpoena under this article, a party shall submit to the clerk of court in the circuit in which discovery is sought to be conducted in the Commonwealth (i) a foreign subpoena ~~and~~; (ii) a written statement that the law of the foreign jurisdiction grants reciprocal privileges to citizens of the Commonwealth for taking discovery in the jurisdiction that issued the foreign subpoena; ~~and~~ (iii) an attestation, made under penalty of perjury, stating whether the subpoena seeks documents, information, or testimony related to protected health care activity as defined in § 32.1-377. The submission of such attestation shall subject the attester to the jurisdiction of the courts of the Commonwealth for any suit, penalty, or damages arising out of false attestation under this section.

B. ~~When Except as provided in subsection F, when a party submits a foreign subpoena to a clerk of court in the Commonwealth, the clerk, in accordance with that court's procedure, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed.~~

C. A subpoena under subsection B shall:

1. Incorporate the terms used in the foreign subpoena; and

2. Contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

D. A request for the issuance of a subpoena under this article does not constitute an appearance in the courts of the Commonwealth, and no civil action need be filed in the circuit court of the Commonwealth.

E. The provisions of this article shall be in addition to other procedures authorized in the Code of Virginia and the rules of court for obtaining discovery, except that no subpoena issued in the Commonwealth pursuant to this article may be issued by any person other than the applicable circuit court clerk of court in the Commonwealth, in accordance with subsections A and B.

F. *If a party submits a foreign subpoena to a clerk of court of the Commonwealth that fails to include the attestation required by subsection A, the clerk shall not issue a subpoena for service and shall present the request to the court for further action. No subpoena shall be issued and the court shall quash any existing subpoena unless the court is able to determine that such subpoena does not seek documents, information, or testimony that relates to protected health care activity as defined in § 32.1-377. However, the court may issue the subpoena if the court determines that the foreign subpoena seeks documents, information, or testimony related to (i) an out-of-state action founded in tort, contract, or statute for which a similar claim would exist under the laws of the Commonwealth, if such out-of-state action is brought by a person or the person's authorized legal representative for damages suffered by the person or damages derived from an individual's loss of consortium of the person, or (ii) an out-of-state contract action for which a similar claim would exist under the laws of the Commonwealth that is brought or sought to be enforced by a party with a contractual relationship with the subject of the subpoena. The court may request additional evidence or arguments to make such a determination.*

**§ 19.2-87.1. Extradition of persons charged with certain criminal violations; prohibition.**

A. As used in this section, "protected health care activity" means the same as that term is defined in § 32.1-377.

B. *Notwithstanding the provisions of this article, no demand for extradition of a person charged with a criminal violation of the laws of another state shall be recognized by the Governor if such alleged criminal violation involves a protected health care activity, unless the alleged criminal violation would also constitute a criminal offense under the laws of the Commonwealth. However, the Governor may request that the state demanding extradition attest to the factual and legal basis of such alleged violation of the laws of another state.*

60       C. The provisions of this section shall not apply when a person who is subject to a demand for extradition  
61       from another state was physically present in the demanding state at the time of the commission of the alleged  
62       offense and thereafter fled from such state, except that an affirmation under oath by such person that the  
63       person was present in the Commonwealth at the time of the commission of the offense shall create a  
64       presumption that the person was not in the demanding state at the time of the commission of such alleged  
65       offense. Such presumption may be rebutted by clear and convincing evidence by the demanding state in the  
66       circuit or general district court of the jurisdiction where the person subject to such demand for extradition is  
67       a resident or is being held pending extradition.

68       D. The Governor may act on a demand for extradition of a person charged with a criminal violation of the  
69       laws of another state that involves a protected health care activity only if the demand for extradition is  
70       accompanied with an attestation, made under penalty of perjury by a person with direct knowledge of the  
71       facts, that includes specific and non-conclusory facts that the person subject to such demand for extradition  
72       was physically present in the demanding state at the time of the commission of the alleged offense and  
73       thereafter fled from such state. Such an attestation subjects the attester to the jurisdiction of the courts of the  
74       Commonwealth for any suit, penalty, or damages arising out of a false attestation under this section. A  
75       demand for extradition under this section that fails to comply with the provisions of this subsection shall be  
76       facially invalid.

77       **§ 19.2-88. Governor may investigate case.**

78       A. When a demand shall be made upon the Governor by the executive authority of another state for the  
79       surrender of a person so charged with, or convicted of, crime, the Governor may call upon the Attorney  
80       General or any other officer of this Commonwealth to investigate or assist in investigating the demand and to  
81       report to him the situation and circumstances of the person so demanded and whether he ought to be  
82       surrendered.

83       B. Notwithstanding any other provision of law, when a demand for extradition is for a person charged  
84       with a crime relating to protected health care activity as defined in § 32.1-377, the Governor shall take no  
85       less than 365 calendar days to investigate the case as permitted under this section before acting on or  
86       responding to the demand. Such 365-day period shall begin no earlier than the day after the Governor issues  
87       an accurate and written acknowledgement of the receipt of all materials required to constitute a proper  
88       demand in accordance with subsection C of § 19.2-87.1 and other relevant provisions of law.

89       **§ 19.2-99. Arrest prior to requisition.**

90       A. Whenever: (1) any person within this Commonwealth shall be charged on the oath of any credible  
91       person before any judge, magistrate or other officer authorized to issue criminal warrants in this  
92       Commonwealth with the commission of any crime in any other state and, except in cases arising under  
93       § 19.2-91, (a) with having fled from justice, (b) with having been convicted of a crime in that state and of  
94       having escaped from confinement, or (c) of having broken the terms of his bail, probation, or parole, or (2) a  
95       complaint shall have been made before any such judge, magistrate or other officer in this Commonwealth  
96       setting forth on the affidavit of any credible person in another state that a crime has been committed in such  
97       other state and that the accused has been charged in such state with the commission of the crime, and, except  
98       in cases arising under § 19.2-91, (a) has fled from justice, (b) having been convicted of a crime in that state  
99       has escaped from confinement, or (c) broken the terms of his bail, probation or parole, and that the accused is  
100       believed to be in this Commonwealth, such judge, magistrate or other officer shall issue a warrant directed to  
101       any sheriff or to any peace officer commanding him to apprehend the person named therein, wherever he may  
102       be found in this Commonwealth, and to bring him before any judge who may be available in or convenient of  
103       access to the place where the arrest may be made, to answer the charge of complaint and affidavit. A certified  
104       copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the  
105       warrant.

106       B. No warrant shall be issued under subsection A for a person charged with a criminal violation of the  
107       laws of another state that involves a protected health care activity as defined in § 32.1-377 unless the  
108       affidavit required by subsection A includes an attestation that complies fully with the provisions of subsection  
109       C of § 19.2-87.1.

110       **§ 19.2-100. Arrest without warrant.**

111       A. The arrest of a person may be lawfully made also by any peace officer or private person without a  
112       warrant upon reasonable information that the accused stands charged in the courts of a state with a crime  
113       punishable by imprisonment for a term exceeding one year. But when so arrested the accused shall be taken  
114       before a judge, magistrate or other officer authorized to issue criminal warrants in the Commonwealth with  
115       all practicable speed and complaint made against him under oath setting forth the ground for the arrest as in  
116       § 19.2-99, and thereafter his answer shall be heard as if he had been arrested on a warrant.

117       B. The arrest of a person without a warrant is prohibited if the arrest is related to criminal liability that is  
118       based on protected health care activity as defined in § 32.1-377.

119       **§ 19.2-273. Certificate that witness is needed in another state; hearing.**

120       If a judge of a court of record in any state which by its laws has made provisions for commanding persons  
121       within that state to attend and testify in this Commonwealth certifies under the seal of such court (i) that

122 there is a criminal prosecution pending in such court or that a grand jury investigation has commenced or is  
123 about to commence; (2); (ii) that a person being within this Commonwealth is a material witness in such  
124 prosecution or grand jury investigation; and (3); (iii) that his presence will be required for a specified number  
125 of days; upon; and (iv) that such prosecution or grand jury investigation is not related to protected health  
126 care activity as defined in § 32.1-377. Upon presentation of such certificate to any judge of a court of record  
127 in the county or city in which such person is, such judge shall fix a time and place for hearing and shall make  
128 an order directing the witness to appear at a time and place certain for the hearing.

129 **§ 19.2-274. When court to order witness to attend.**

130 *If A. Except as provided in subsection B, if at such hearing the judge determines that the witness is*  
131 *material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and*  
132 *testify in the prosecution or grand jury investigation in the other state and that the laws of the state in which*  
133 *the prosecution is pending, or grand jury investigation has commenced or is about to commence (and of any*  
134 *other state through which the witness may be required to pass by ordinary course of travel) will give to him*  
135 *protection from arrest and the service of civil and criminal process, the judge shall issue a summons, with a*  
136 *copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution*  
137 *is pending, or where a grand jury investigation has commenced or is about to commence at a time and place*  
138 *specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts*  
139 *stated therein.*

140 *B. However, no court shall issue a summons if such prosecution or grand jury investigation is related to*  
141 *protected health care activity as defined in § 32.1-377.*

142 **CHAPTER 21.**

143 **VIRGINIA HEALTH CARE PROTECTION ACT.**

144 **§ 32.1-376. Short title.**

145 *This chapter may be cited as the Virginia Health Care Protection Act.*

146 **§ 32.1-377. Definitions.**

147 *As used in this chapter, unless the context requires a different meaning:*

148 *"Abusive litigation" means:*

149 *1. Litigation or other legal action intended to deter, prevent, sanction, or punish any person engaging in*  
150 *protected health care activity by prosecuting any action in any jurisdiction other than the Commonwealth*  
151 *where liability, in whole or part, directly or indirectly, is based on protected health care activity that*  
152 *occurred in the Commonwealth, including any action in which liability is based on any theory of vicarious or*  
153 *joint and several liability derived therefrom. A lawsuit shall be considered to be based on conduct that*  
154 *occurred in the Commonwealth if any part of any act or omission involved in the course of conduct that forms*  
155 *the basis for liability in the lawsuit occurs or is initiated in the Commonwealth, whether or not such act or*  
156 *omission is alleged or included in any pleading or other filing in the lawsuit; or*

157 *2. Any attempt to enforce any order or judgment issued in connection with any such action by any party to*  
158 *an action described in subdivision 1 or any person acting on behalf of a party to the action.*

159 *"Abusive litigation" does not include legal actions or judgments commenced or entered in another*  
160 *jurisdiction that are based upon conduct for which a cause of action exists under the laws of the*  
161 *Commonwealth if the conduct that forms the basis for liability has occurred entirely within the*  
162 *Commonwealth, including any contract, tort, common law, or statutory claims.*

163 *"Criminal justice agency" means the same as that term is defined in § 9.1-101.*

164 *"Law-enforcement officer" means those persons identified in the definitions of "law-enforcement officer"*  
165 *in § 9.1-101 and subsection H of § 18.2-57.*

166 *"Protected health care activity" means the provision or receipt, attempted provision or receipt, or*  
167 *assistance or attempted assistance in the provision or receipt of health care that is lawful in the*  
168 *Commonwealth by a health care provider licensed under the laws of the Commonwealth and physically*  
169 *present in the Commonwealth. "Protected health care activity" includes all behavioral health, diagnostic,*  
170 *medical, mental health, pharmaceutical, preventative, psychiatric, psychological, rehabilitative, support,*  
171 *surgical, or therapeutic care services and any supplies, assessment, diagnosis, treatment, procedure,*  
172 *prescription, test, medication, advice, or other service related to such care.*

173 *"Provision" and "receipt" of health care mean the providing of such care, the receiving of such care,*  
174 *assisting in the providing or receiving of such care, or materially supporting the providing or receiving of*  
175 *such care.*

176 **§ 32.1-378. Law-enforcement investigations; protected health care activity.**

177 *A. Notwithstanding any other provision of law, no law-enforcement officer acting within the*  
178 *Commonwealth or employed by a criminal justice agency of the Commonwealth or any of its localities or*  
179 *political subdivisions who is acting in relation to an investigation or inquiry into services constituting*  
180 *protected health care activity, if such services would be lawful if provided entirely within the Commonwealth,*  
181 *shall (i) investigate, arrest, or detain any person, seek the issuance of a warrant, or otherwise assist in or*  
182 *provide support for any investigation or (ii) provide information to any law-enforcement officer outside of the*  
183 *Commonwealth, including in any other federal, state, or local jurisdictions, or to any private citizen.*

184       B. Any person who is the subject of an investigation, a warrant, an arrest, detention, or provision of  
185 information in violation of subsection A may bring a civil action for declaratory, injunctive, or other  
186 equitable relief to enforce the terms of this section. However, the provisions of this subsection shall not limit  
187 a person from seeking other remedies available by applicable law.

188       C. Notwithstanding any other provision of law, a civil action brought pursuant to this section may be filed  
189 in the court for the city or county where the person filing the action resides or has his principal place of  
190 business, where any act giving rise to the action occurred, or in the City of Richmond.

191       D. Nothing in this section shall be construed to prohibit an investigation, arrest or charge, or prosecution  
192 of a person for any activity that is suspected or shown to be unlawful under the laws of the Commonwealth.

193       **§ 32.1-379. Unlawful search, seizure, arrest, imprisonment, etc.**

194       Any search, seizure, arrest, detention, or imprisonment caused by or in which a violation of § 19.2-87.1,  
195 19.2-99, 19.2-100, or 32.1-380 contributed is unlawful. The provisions of this section shall apply only to a  
196 search, seizure, arrest, detention, or imprisonment that is based, in whole or in part, on the alleged protected  
197 health care activity.

198       Nothing in this section shall be construed to prohibit an investigation, arrest or charge, or prosecution of  
199 a person for any activity that is suspected or shown to be unlawful under the laws of the Commonwealth.

200       **§ 32.1-380. Individual actions; civil penalty.**

201       A. In addition to any other right or remedy, an individual may bring a civil action against another person  
202 for nominal, compensatory, and punitive damages or equitable relief in addition to reasonable attorney fees  
203 and costs if such individual (i) is aggrieved by another person's failure to comply with the attestation  
204 requirements provided in subsection A of § 8.01-412.10, subsection C of § 19.2-87.1, or subsection B of  
205 § 19.2-99 or (ii) is injured, incurs damages, or is subjected to other harm as a result of another individual  
206 who, under the laws of a jurisdiction outside of the Commonwealth, engages or attempts to engage in abusive  
207 litigation as defined in § 32.1-377. Any compensatory damages awarded pursuant to this subsection shall be  
208 in the amount of actual damages or \$5,000, whichever is greater.

209       For the purposes of this subsection, each instance in which an individual engages or attempts to engage  
210 in abusive litigation shall constitute a separate act for which a person injured may bring an action.

211       B. No action shall be commenced under this section more than three years after an aggrieved person's  
212 discovery that a violation pursuant to subsection A has occurred.

213       C. In addition to any venue otherwise allowed by law, proper venue for an action brought pursuant to this  
214 section may be laid in the County of Fairfax or the City of Richmond.

215       **§ 32.1-381. Attorney General; civil action; civil penalty.**

216       A. In addition to any other right or remedy allowed by law, the Attorney General may bring a civil action  
217 against any person who violates the attestation requirements provided in subsection A of § 8.01-412.10,  
218 subsection C of § 19.2-87.1, or subsection B of § 19.2-99 or who engages in abusive litigation. Such person  
219 shall be subject to a civil penalty of not more than \$10,000 for each violation as well as reasonable attorney  
220 fees and costs.

221       B. No action shall be commenced under this section more than three years after a violation of subsection  
222 A has occurred.

223       C. All penalties, fees, and costs shall be paid into the general fund of the Commonwealth.

224       **§ 32.1-382. Waiver of immunity.**

225       A. The Commonwealth and its agencies, localities, and political subdivisions, and all officers, employees,  
226 and agents of the Commonwealth and its agencies, localities, and political subdivisions, waive immunity as to  
227 the imposition of declaratory, injunctive, or other equitable relief for any action brought pursuant to this  
228 chapter.

229       B. If an officer, employee, or agent of a government or governmental entity engages in the conduct  
230 prohibited or made unlawful under this chapter in the course of his employment, under the color of law, or  
231 pursuant to his duties on behalf of the government or governmental entity, such officer, employee, or agent  
232 may be held liable or otherwise subject to court order as authorized in this chapter in his individual capacity,  
233 as if he had not been acting in the course of his employment, under the color of law, or pursuant to his duties  
234 on behalf of the government or governmental entity.

235       2. That the provisions of this act may result in a net increase in periods of imprisonment or  
236 commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary  
237 appropriation cannot be determined for periods of imprisonment in state adult correctional facilities;  
238 therefore, Chapter 725 of the Acts of Assembly of 2025 requires the Virginia Criminal Sentencing  
239 Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of  
240 Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of  
241 commitment to the custody of the Department of Juvenile Justice.