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SENATE BILL NO. 259

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 29, 2000)

(Patron Prior to Substitute—Senator Barry)

*A BILL to amend and reenact § 63.1-248.6 of the Code of Virginia, relating to child protective services.***Be it enacted by the General Assembly of Virginia:****1. That § 63.1-248.6 of the Code of Virginia is amended and reenacted as follows:**

§ 63.1-248.6. Local departments to establish child-protective services; duties.

A. Each local department shall establish child-protective services under a departmental coordinator within such department or with one or more adjacent local departments which shall be staffed with qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local department shall be the public agency responsible for receiving and investigating complaints and reports, except that (i) in cases where the reports or complaints are to be made to the juvenile and domestic relations district court and the judge determines that no local department of social services within a reasonable geographic distance can impartially investigate the report, the court shall be responsible for the investigation and (ii) in cases where an employee at a private or state-operated hospital, institution or other facility, or an employee of a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility, or public school, the local department shall request the Department to assist in conducting the investigation in accordance with rules and regulations approved by the State Board, *in consultation with the Departments of Education, Health, Medical Assistance Services, Mental Health, Mental Retardation and Substance Abuse Services, Juvenile Justice and Corrections.*

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection A1 of § 63.1-248.3, the department may file a petition pursuant to § 16.1-241.3;

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection A1 of § 63.1-248.3, if the mother sought substance abuse counseling or treatment prior to the child's birth;

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such removal;

5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of § 18.2-371, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and

60 transmit a report to such effect to the central registry and to the person who is the subject of the
61 investigation. However, upon written justification by the local department, such determination may be
62 extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the
63 department is unable to find the child who is the subject of the report, the time the child cannot be
64 found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such
65 reasonable diligence shall be placed in the record;

66 8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant
67 and parent or guardian and the person responsible for the care of the child in those cases where such
68 person was suspected of abuse or neglect;

69 9. When abuse or neglect is suspected in any case involving the death of a child, report the case
70 immediately to the regional medical examiner and the local law-enforcement agency;

71 10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect
72 has been received and is under investigation or for whom a founded determination of abuse and neglect
73 has been made and a child protective services case opened and (ii) persons who are the subject of a
74 report that is under investigation, if the whereabouts of the child or such persons are unknown to the
75 local department;

76 11. When an abused or neglected child and the persons who are the subject of an open child
77 protective services case have relocated out of the jurisdiction of the local department, notify the child
78 protective services agency in the jurisdiction to which such persons have relocated, whether inside or
79 outside of the Commonwealth, and forward to such agency relevant portions of the case record. The
80 receiving local department shall arrange protective and rehabilitative services as required by this section;
81 and

82 12. When a child for whom a report of suspected abuse or neglect has been received and is under
83 investigation and the child and/or the child's parents or other persons responsible for the child's care who
84 are the subject of the report that is under investigation have relocated out of the jurisdiction of the local
85 department, notify the child protective services agency in the jurisdiction to which the child and/or such
86 persons have relocated, whether inside or outside of the Commonwealth, and complete such
87 investigation by requesting such agency's assistance in completing the investigation. The local
88 department that completes the investigation shall forward to the receiving agency relevant portions of the
89 case record in order for the receiving agency to arrange protective and rehabilitative services as required
90 by this section.

91 F. The local department shall foster, when practicable, the creation, maintenance and coordination of
92 hospital and community-based multi-disciplinary teams which shall include where possible, but not be
93 limited to, members of the medical, mental health, social work, nursing, education, legal and
94 law-enforcement professions. Such teams shall assist the local departments in identifying abused and
95 neglected children; coordinating medical, social, and legal services for the children and their families;
96 developing innovative programs for detection and prevention of child abuse; promoting community
97 concern and action in the area of child abuse and neglect; and disseminating information to the general
98 public with respect to the problem of child abuse and neglect and the facilities and prevention and
99 treatment methods available to combat child abuse and neglect. These teams may be the family
100 assessment and planning teams established pursuant to § 2.1-753. Multi-disciplinary teams may develop
101 agreements regarding the exchange of information among the parties for the purposes of the
102 investigation and disposition of complaints of child abuse and neglect, delivery of services, and child
103 protection. Any information exchanged in accordance with the agreement shall not be considered to be a
104 violation of the provisions of § 63.1-53 or § 63.1-209.

105 The local department shall also coordinate its efforts in the provision of these services for abused and
106 neglected children with the judge and staff of the court.

107 G. The local department shall report annually on its activities concerning abused and neglected
108 children to the court and to the Child-Protective Services Unit in the Department on forms provided by
109 the Department.

110 H. Statements, or any evidence derived therefrom, made to local department child-protective services
111 personnel, or to any person performing the duties of such personnel, by any person accused of the
112 abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in
113 the case in chief against such person in the criminal proceeding on the question of guilt or innocence
114 over the objection of the accused, unless the statement was made after such person was fully advised (i)
115 of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii)
116 that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford
117 an attorney, one will be appointed for him prior to any questioning.

118 I. Notwithstanding any other provision of law, the local department, in accordance with Board
119 regulations, shall transmit information regarding founded complaints and may transmit other information
120 regarding reports, complaints, and investigations involving active duty military personnel or members of
121 their household to family advocacy representatives of the United States Armed Forces.

122 2. That the State Board of Social Services shall promulgate regulations to implement the
123 provisions of this act to be effective within 280 days of its enactment.
124 3. That the Advisory Board on Child Abuse and Neglect established pursuant to § 63.1-248.16
125 review the process for investigating allegations of abuse and neglect of children in licensed and
126 unlicensed child day centers, family day homes, private and public schools, private and
127 state-operated hospitals, child care institutions and residential facilities for juveniles and that the
128 Commissioner of the Department of Social Services report to the Chairs of the House Committee
129 on Health, Welfare and Institutions and the Senate Committee on Rehabilitation and Social
130 Services on any recommendation of the Advisory Board by September 30, 2000.