

VIRGINIA ACTS OF ASSEMBLY -- 2003 RECONVENED SESSION

CHAPTER 1013

An Act to amend and reenact § 63.2-1511 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1516.1, relating to child protective services; investigation procedures.

[S 1043]

Approved April 2, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1511 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 63.2-1516.1 as follows:

§ 63.2-1511. Complaints of abuse and neglect against school personnel.

A. If a teacher, principal or other person employed by a local school board or employed in a school operated by the Commonwealth is suspected of abusing or neglecting a child in the course of his educational employment, the complaint shall be investigated in accordance with §§ 63.2-1503 ~~and~~, 63.2-1505 ~~and~~ 63.2-1516.1. Pursuant to § 22.1-279.1, no teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth shall subject a student to corporal punishment. However, this prohibition of corporal punishment shall not be deemed to prevent (i) the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control; (ii) the use of reasonable and necessary force to quell a disturbance or remove a student from the scene of a disturbance that threatens physical injury to persons or damage to property; (iii) the use of reasonable and necessary force to prevent a student from inflicting physical harm on himself; (iv) the use of reasonable and necessary force for self-defense or the defense of others; or (v) the use of reasonable and necessary force to obtain possession of weapons or other dangerous objects or controlled substances or paraphernalia that are upon the person of the student or within his control. In determining whether the actions of a teacher, principal or other person employed by a school board or employed in a school operated by the Commonwealth are within the exceptions provided in this section, the local department shall examine whether the actions at the time of the event that were made by such person were reasonable.

B. For purposes of this section, "corporal punishment" or "abused or neglected child" shall not include physical pain, injury or discomfort caused by the use of incidental, minor or reasonable physical contact or other actions designed to maintain order and control as permitted in clause (i) of subsection A or the use of reasonable and necessary force as permitted by clauses (ii), (iii), (iv), and (v) of subsection A, or by participation in practice or competition in an interscholastic sport, or participation in physical education or an extracurricular activity.

C. Each local department of social services and local school division shall adopt a written interagency agreement as a protocol for investigating child abuse and neglect reports against school personnel. The interagency agreement shall be based on recommended procedures for conducting investigations developed by the Departments of Education and Social Services.

§ 63.2-1516.1. Investigation procedures when school employee is subject of the complaint or report; release of information in joint investigations.

A. Except as provided in subsection B of this section, in cases where a child is alleged to have been abused or neglected by a teacher, principal or other person employed by a local school board or employed in a school operated by the Commonwealth, in the course of such employment in a nonresidential setting, the local department conducting the investigation shall comply with the following provisions in conducting its investigation:

1. The local department shall conduct a face-to-face interview with the person who is the subject of the complaint or report.

2. At the onset of the initial interview with the alleged abuser or neglecter, the local department shall notify him in writing of the general nature of the complaint and the identity of the alleged child victim regarding the purpose of the contacts.

3. The written notification shall include the information that the alleged abuser or neglecter has the right to have an attorney or other representative of his choice present during his interviews. However, the failure by a representative of the Department of Social Services to so advise the subject of the complaint shall not cause an otherwise voluntary statement to be inadmissible in a criminal proceeding.

4. Written notification of the findings shall be submitted to the alleged abuser or neglecter. The notification shall include a summary of the investigation and an explanation of how the information gathered supports the disposition.

5. The written notification of the findings shall inform the alleged abuser or neglecter of his right to appeal.

6. *The written notification of the findings shall inform the alleged abuser or neglecter of his right to review information about himself in the record with the following exceptions:*

- a. The identity of the person making the report.*
- b. Information provided by any law-enforcement official.*
- c. Information that may endanger the well-being of the child.*
- d. The identity of a witness or any other person if such release may endanger the life or safety of such witness or person.*

B. In all cases in which an alleged act of child abuse or neglect is also being criminally investigated by a law-enforcement agency, and the local department is conducting a joint investigation with a law-enforcement officer in regard to such an alleged act, no information in the possession of the local department from such joint investigation shall be released by the local department except as authorized by the investigating law-enforcement officer or his supervisor or the local attorney for the Commonwealth.

C. Failure to comply with investigation procedures does not preclude a finding of abuse or neglect if such a finding is warranted by the facts.