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## SENATE BILL NO. 1057

Offered January 8, 2003

Prefiled January 8, 2003

*A BILL to amend and reenact §§ 16.1-228, 16.1-283 and 18.2-371.1 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 16.1-241.4 and 63.2-910.1, relating to affirmative defense to prosecution for abuse and neglect; approved facilities; emergency custody of abandoned children; report by Department.*

Patrons—Williams, Blevins, Cuccinelli, Hanger and Mims

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-228, 16.1-283 and 18.2-371.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 16.1-241.4 and 63.2-910.1 as follows:**

§ 16.1-228. Definitions.

When used in this chapter, unless the context otherwise requires:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;

3. Whose parents or other person responsible for his care abandons such child; *however, a child who is delivered to an approved facility, in accordance with the provisions of § 16.1-241.4, shall not be considered an abused or neglected child based solely upon the delivery of the child to an approved facility;*

4. Whose parents or other person responsible for his care commits or allows to be committed any sexual act upon a child in violation of the law; or

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian or other person standing in loco parentis.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he has been legally adopted by another member of the household.

"Adult" means a person eighteen years of age or older.

"Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part of the same act or transaction as, or which constitutes a part of a common scheme or plan with, a delinquent act which would be a felony if committed by an adult.

"Approved facility" means any law-enforcement agency, hospital that is a public or private institution licensed to provide services pursuant to Chapter 5 (§ 32.1-123 et. seq.) of Title 32.1 or operated by the State to provide such services, local department of health, or local department of social services.

"Boot camp" means a short term secure or nonsecure juvenile residential facility with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline, and no less than six months of intensive aftercare.

"Child," "juvenile" or "minor" means a person less than eighteen years of age.

"Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.2-100.

"Child in need of services" means a child whose behavior, conduct or condition presents or results in a serious threat to the well-being and physical safety of the child; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be a child in need of services, nor shall any child who habitually remains away from or habitually deserts or abandons his family as a result of what the court or the local child protective services unit determines to be incidents of physical, emotional or sexual abuse in the home be considered a child in need of

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59 services for that reason alone. *Additionally, a child who is delivered to an approved facility, in*  
60 *accordance with the provisions of § 16.1-241.4, is a child in need of services.*

61 However, to find that a child falls within these provisions, (i) the conduct complained of must  
62 present a clear and substantial danger to the child's life or health or (ii) the child or his family is in need  
63 of treatment, rehabilitation or services not presently being received, and (iii) the intervention of the court  
64 is essential to provide the treatment, rehabilitation or services needed by the child or his family.

65 "Child in need of supervision" means:

66 1. A child who, while subject to compulsory school attendance, is habitually and without justification  
67 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of  
68 any and all educational services and programs that are required to be provided by law and which meet  
69 the child's particular educational needs, (ii) the school system from which the child is absent or other  
70 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,  
71 and (iii) the school system has provided documentation that it has complied with the provisions of  
72 § 22.1-258; or

73 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or  
74 placement authority, remains away from or deserts or abandons his family or lawful custodian on more  
75 than one occasion or escapes or remains away without proper authority from a residential care facility in  
76 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to  
77 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not  
78 presently being received, and (iii) the intervention of the court is essential to provide the treatment,  
79 rehabilitation or services needed by the child or his family.

80 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile  
81 and domestic relations district court of each county or city.

82 "Delinquent act" means (i) an act designated a crime under the law of this Commonwealth, or an  
83 ordinance of any city, county, town or service district, or under federal law, (ii) a violation of  
84 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but shall not include an  
85 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if  
86 committed by a child. For purposes of §§ 16.1-241 and 16.1-278.9, the term shall include a refusal to  
87 take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance of any county, city or  
88 town.

89 "Delinquent child" means a child who has committed a delinquent act or an adult who has committed  
90 a delinquent act prior to his eighteenth birthday, except where the jurisdiction of the juvenile court has  
91 been terminated under the provisions of § 16.1-269.6.

92 "Department" means the Department of Juvenile Justice and "Director" means the administrative head  
93 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the  
94 duties imposed upon him under this law.

95 "Family abuse" means any act involving violence, force, or threat including, but not limited to, any  
96 forceful detention, which results in bodily injury or places one in reasonable apprehension of bodily  
97 injury and which is committed by a person against such person's family or household member.

98 "Family or household member" means (i) the person's spouse, whether or not he or she resides in the  
99 same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same  
100 home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters,  
101 grandparents and grandchildren, regardless of whether such persons reside in the same home with the  
102 person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and  
103 sisters-in-law who reside in the same home with the person, (v) any individual who has a child in  
104 common with the person, whether or not the person and that individual have been married or have  
105 resided together at any time, or (vi) any individual who cohabits or who, within the previous twelve  
106 months, cohabited with the person, and any children of either of them then residing in the same home  
107 with the person.

108 "Foster care services" means the provision of a full range of casework, treatment and community  
109 services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or  
110 in need of services as defined in this section and his family when the child (i) has been identified as  
111 needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through  
112 an agreement between the local board of social services or a public agency designated by the  
113 community policy and management team and the parents or guardians where legal custody remains with  
114 the parents or guardians, (iii) has been committed or entrusted to a local board of social services or  
115 child welfare agency, or (iv) has been placed under the supervisory responsibility of the local board  
116 pursuant to § 16.1-293.

117 "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this  
118 chapter.

119 "Jail" or "other facility designed for the detention of adults" means a local or regional correctional  
120 facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding

cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.2-1517. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term basis.

"Secure facility" or "detention home" means a local, regional or state public or private locked residential facility which has construction fixtures designed to prevent escape and to restrict the movement and activities of children held in lawful custody.

"Shelter care" means the temporary care of children in physically unrestricting facilities.

"State Board" means the State Board of Juvenile Justice.

"Status offender" means a child who commits an act prohibited by law which would not be criminal if committed by an adult.

"Status offense" means an act prohibited by law which would not be an offense if committed by an adult.

"Residual parental rights and responsibilities" means all rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.

"Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of § 16.1-269.1 when committed by a juvenile fourteen years of age or older.

*§ 16.1-241.4. Emergency custody of certain abandoned children.*

*A. An approved facility shall, without a court order, take temporary physical custody of a child who is, or appears to be, not more than 14 days old if:*

- 1. The child is voluntarily left with the facility; and*
- 2. The person does not express an intent to return for the child.*

*B. The facility shall perform any act reasonably necessary to protect the physical health or safety of the child. Facility personnel acting in accordance with this section shall be immune from civil liability or criminal prosecution unless the actions of such personnel constitute gross negligence or willful misconduct.*

*C. Except where there is actual or suspected child abuse, neglect, or kidnapping, the person leaving the infant is not required to disclose his identity and may leave at any time and shall not be pursued or followed. The facility personnel shall, when practicable, attempt to obtain from the person information concerning the infant's background and medical history, which shall be forwarded to the local board of social services.*

*D. Immediately after a facility takes custody of a child, the facility shall notify the local board of social services. If the facility to which the child is delivered is not a hospital, the child shall be transported to a hospital as soon as reasonably practicable. The local board of social services shall assume the care, control and custody of the child as soon as practicable upon receipt of such notice. No hospital to which a child is delivered pursuant to this section shall discharge the child until the child is medically stable for discharge, unless the child is transferred to a more medically appropriate care setting. Hospital personnel acting in accordance with this section shall be immune from civil liability or criminal prosecution unless the actions of such personnel constitute gross negligence or willful misconduct.*

*E. Whenever a child is taken into custody without a court order under this section, the local board of social services shall seek an emergency ex parte custody order pursuant to § 63.2-910.1.*

*F. The Commonwealth shall reimburse the facility for the facility's actual expenses in accepting and caring for the child.*

§ 16.1-283. Termination of residual parental rights.

182 A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter  
183 provided in a separate proceeding if the petition specifically requests such relief. No petition seeking  
184 termination of residual parental rights shall be accepted by the court prior to the filing of a foster care  
185 plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the  
186 best interests of the child. The court may hear and adjudicate a petition for termination of parental rights  
187 in the same proceeding in which the court has approved a foster care plan which documents that  
188 termination is in the best interests of the child. The court may terminate the residual parental rights of  
189 one parent without affecting the rights of the other parent. The local board of social services or a  
190 licensed child-placing agency need not have identified an available and eligible family to adopt a child  
191 for whom termination of parental rights is being sought prior to the entry of an order terminating  
192 parental rights.

193 Any order terminating residual parental rights shall be accompanied by an order continuing or  
194 granting custody to a local board of social services, to a licensed child-placing agency or the granting of  
195 custody or guardianship to a relative or other interested individual, subject to the provisions of  
196 subsection A1 of this section. However, in such cases the court shall give a consideration to granting  
197 custody to relatives of the child, including grandparents. An order continuing or granting custody to a  
198 local board of social services or to a licensed child-placing agency shall indicate whether that board or  
199 agency shall have the authority to place the child for adoption and consent thereto.

200 The summons shall be served upon the parent or parents and the other parties specified in  
201 § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child, a  
202 relative providing care for the child, and any preadoptive parents for the child informing them that they  
203 may appear as witnesses at the hearing to give testimony and otherwise participate in the proceeding.  
204 The persons entitled to notice and an opportunity to be heard need not be made parties to the  
205 proceedings. The summons or notice of hearing shall clearly state the consequences of a termination of  
206 residual parental rights. Service shall be made pursuant to § 16.1-264.

207 *A1. For purposes of terminating residual parental rights in a child who is delivered to an approved*  
208 *facility as provided in § 16.1-241.4:*

209 *1. Notice shall be deemed waived for the parent who delivered a child to an approved facility and*  
210 *who has chosen to remain anonymous; or*

211 *2. If the identity of the parent of a child delivered to an approved facility is known, the local board*  
212 *of social services shall notify the parent pursuant to the provisions of subsection A; and*

213 *3. If the identity of the non-relinquishing parent is unknown, notice shall be served on that parent by*  
214 *publication at least once a week for 3 consecutive weeks in a newspaper having general circulation in*  
215 *the city or county where the child was delivered. If no such newspaper is published, notice shall be*  
216 *served in a newspaper having general circulation in such city or county. The notice shall contain a*  
217 *description of the child and shall inform the non-relinquishing parent of the requirement that they*  
218 *appear personally before the court, at the time fixed, to defend their parental rights. The failure of the*  
219 *parent to appear after publication of such notice shall constitute a waiver by the parent of any further*  
220 *notice of the proceedings.*

221 ~~A1~~ A2. Any order transferring custody of the child to a relative or other interested individual  
222 pursuant to subsection A of this section shall be entered only upon a finding, based upon a  
223 preponderance of the evidence, that the relative or other interested individual is one who, after an  
224 investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and  
225 care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is  
226 committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability  
227 to protect the child from abuse and neglect; and the order shall so state. The court's order transferring  
228 custody to a relative or other interested individual should further provide, as appropriate, for any terms  
229 and conditions which would promote the child's interest and welfare.

230 B. The residual parental rights of a parent or parents of a child found by the court to be neglected or  
231 abused and placed in foster care as a result of (i) court commitment; (ii) an entrustment agreement  
232 entered into by the parent or parents; or (iii) other voluntary relinquishment by the parent or parents  
233 may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best  
234 interests of the child and that:

235 *1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life,*  
236 *health or development; and*

237 *2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be*  
238 *substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within*  
239 *a reasonable period of time. In making this determination, the court shall take into consideration the*  
240 *efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health*  
241 *or other rehabilitative agencies prior to the child's initial placement in foster care.*

242 Proof of any of the following shall constitute prima facie evidence of the conditions set forth in  
243 subdivision B 2 hereof:

a. The parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;

b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or

c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition; or

2. The parent or parents, without good cause, have been unwilling or unable within a reasonable period of time not to exceed twelve months from the date the child was placed in foster care to remedy substantially the conditions which led to or required continuation of the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end. Proof that the parent or parents, without good cause, have failed or been unable to make substantial progress towards elimination of the conditions which led to or required continuation of the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court shall take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

D. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused upon the ground of abandonment may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The child was abandoned under such circumstances that either the identity or the whereabouts of the parent or parents cannot be determined; and

2. The child's parent or parents, guardian or relatives have not come forward to identify such child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care; and

3. Diligent efforts have been made to locate the child's parent or parents without avail.

*D1. The residual parental rights and responsibilities of a parent or parents of a child in the custody of the local board of social services pursuant to § 16.1-241.4 shall be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interest of the child and that:*

*1. The child was delivered to an approved facility pursuant to § 16.1-241.4 and legal custody of the child was transferred to the local board of social services.*

*2. The child's parent or parents, guardian or relatives have not come forward to identify such child and claim a relationship to the child following the issuance of an order by the court placing the child in foster care after the issuance of proper notice to the parents of the termination proceedings.*

*However, there is a rebuttable presumption that it is not in the best interests of the child to locate the child's parent or reunify the child's family if the child was left with an approved facility pursuant to § 16.1-241.4. The presumption shall not apply if either of the child's parents notify the court or the Department of Social Services at least 10 days prior to the hearing pursuant to this section.*

E. The residual parental rights of a parent or parents of a child who is in the custody of a local board or licensed child-placing agency may be terminated by the court if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of this Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such

305 offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at  
306 the time such offense occurred or the other parent of the child; (iii) the parent has been convicted of an  
307 offense under the laws of this Commonwealth or a substantially similar law of any other state, the  
308 United States or any foreign jurisdiction that constitutes felony assault resulting in serious bodily injury  
309 or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the  
310 offense was a child of the parent or a child with whom the parent resided at the time of such offense; or  
311 (iv) the parent has subjected any child to aggravated circumstances.

312 As used in this section:

313 "Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual  
314 abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided  
315 at the time such conduct occurred, including the failure to protect such a child from such conduct,  
316 which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii)  
317 has resulted in the death of such a child or in serious bodily injury to such a child.

318 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse which place the  
319 child's health, safety and well-being at risk.

320 "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical  
321 pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily  
322 member, organ or mental faculty.

323 "Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once, but  
324 otherwise meets the definition of "aggravated circumstances."

325 The local board or other child welfare agency having custody of the child shall not be required by  
326 the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of  
327 the felonies specified in this subsection or who has been found by the court to have subjected any child  
328 to aggravated circumstances.

329 F. The local board or licensed child-placing agency to which authority is given to place the child for  
330 adoption and consent thereto after an order terminating parental rights is entered shall file a written  
331 Adoption Progress Report with the juvenile court on the progress being made to place the child in an  
332 adoptive home. The report shall be filed with the court every six months from the date of the final order  
333 terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit  
334 court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is  
335 given to the local board or licensed child-placing agency to place the child for adoption, the juvenile  
336 court shall schedule a date by which the board or agency shall file the first written Adoption Progress  
337 Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to  
338 the guardian ad litem for the child. The court may schedule a hearing on the report with or without the  
339 request of a party.

340 G. Notwithstanding any other provisions of this section, residual parental rights shall not be  
341 terminated if it is established that the child, if he is fourteen years of age or older or otherwise of an  
342 age of discretion as determined by the court, objects to such termination. However, residual parental  
343 rights of a child fourteen years of age or older may be terminated over the objection of the child, if the  
344 court finds that any disability of the child reduces the child's developmental age and that the child is not  
345 otherwise of an age of discretion.

346 § 18.2-371.1. Abuse and neglect of children; penalty.

347 A. Any parent, guardian, or other person responsible for the care of a child under the age of eighteen  
348 who by willful act or omission or refusal to provide any necessary care for the child's health causes or  
349 permits serious injury to the life or health of such child shall be guilty of a Class 4 felony. For purposes  
350 of this subsection, "serious injury" shall include but not be limited to (i) disfigurement, (ii) a fracture,  
351 (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous  
352 substances, or (vii) life-threatening internal injuries.

353 B. Any parent, guardian, or other person responsible for the care of a child under the age of eighteen  
354 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a  
355 reckless disregard for human life shall be guilty of a Class 6 felony.

356 C. Any parent, guardian or other person having care, custody, or control of a minor child who in  
357 good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and  
358 practices of a recognized church or religious denomination shall not, for that reason alone, be considered  
359 in violation of this section.

360 D. *It shall be an affirmative defense to prosecution for abuse or neglect that a parent, guardian or*  
361 *other person responsible for the care of the child delivered the child to an approved facility, as defined*  
362 *in § 16.1-228, in accordance with § 16.1-241.4, if such abuse or neglect prosecution is based solely*  
363 *upon the parent's abandonment of the child to an approved facility.*

364 § 63.2-910.1. Responsibilities after receiving notice from the approved facility.

365 A. *Immediately after receiving notice pursuant to § 16.1-241.4, from the approved facility, as defined*  
366 *in § 16.1-228, the local department of social services shall, not later than the next business day, request*

the court to (i) enter an *ex parte* emergency custody order and (ii) appoint a guardian ad litem for the child.

B. The local department of social services shall not initiate a child protective services investigation when a child comes into its custody pursuant to § 16.1-241.4, unless there is actual or suspected child abuse or neglect, other than the delivery of the child to the approved facility. Immediately after receiving notice from the approved facility, the local department shall contact the local law-enforcement agency for assistance in assuring that the child is not a missing child. The law-enforcement agency shall immediately submit an inquiry to the Missing Children Information Clearinghouse.

C. If a parent contacts the local department of social services within 30 days of the delivery of the child and expresses an intent to regain custody of the child, scientifically reliable genetic testing shall be performed to determine parentage.

D. Each local department of social services shall maintain a database of information concerning children abandoned pursuant to § 16.1-241.4 and forward the information to the Department's central information center. The local department of social services shall give the adoptive parents of the infant any information received from the central information center of the Department.

2. That the State Board of Social Services and the State Board of Health shall produce a public information campaign to inform the public concerning the emergency custody provisions contained in § 16.1-241.4. Additionally, the State Board of Social Services and the State Board of Health shall create training programs and guidelines for facilities that opt to become approved facilities pursuant to § 16.1-228, including (i) developing a window sticker or decal to be displayed in a manner that will inform the public that such facility is an approved facility and (ii) providing information for the facilities to distribute regarding the legal process for entrustment agreements and the steps necessary to express an intent to regain custody of the child.

3. That the Department of Social Services shall submit an annual report to the General Assembly, beginning December 1, 2003, that compiles the number of children abandoned annually pursuant to this act.