

VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

CHAPTER 285

An Act to amend and reenact §§ 32.1-330, 51.5-148, 63.2-219, 63.2-1225, 63.2-1226, 63.2-1231, and 63.2-1509 of the Code of Virginia, relating to the term "social worker."

[H 890]

Approved March 24, 2014

Be it enacted by the General Assembly of Virginia:

1. That §§ 32.1-330, 51.5-148, 63.2-219, 63.2-1225, 63.2-1226, 63.2-1231, and 63.2-1509 of the Code of Virginia are amended and reenacted as follows:

§ 32.1-330. Preadmission screening required.

All individuals who will be eligible for community or institutional long-term care services as defined in the state plan for medical assistance shall be evaluated to determine their need for nursing facility services as defined in that plan. The Department shall require a preadmission screening of all individuals who, at the time of application for admission to a certified nursing facility as defined in § 32.1-123, are eligible for medical assistance or will become eligible within six months following admission. For community-based screening, the screening team shall consist of a nurse, social worker *or other Department-designated assessor*, and physician who are employees of the Department of Health or the local department of social services or a team of licensed physicians, nurses, and social workers at the Woodrow Wilson Rehabilitation Center (WWRC) for WWRC clients only. For institutional screening, the Department shall contract with acute care hospitals.

§ 51.5-148. Establishment of Adult Protective Services Unit; powers and duties.

A. The Department shall have responsibility for the planning and oversight of adult protective services in the Commonwealth. The Commissioner shall establish within the Department for Aging and Rehabilitative Services an Adult Protective Services Unit which shall oversee the planning, administration, and implementation of adult protective services in the Commonwealth. Adult protective services shall be provided to the public by local departments of social services pursuant to Chapter 16 (§ 63.2-1600 et seq.) of Title 63.2 in cooperation with the Department and subject to the regulations and oversight of the Commissioner.

B. The Adult Protective Services Unit shall have the following powers and duties:

1. To work together with local departments of social services to support, strengthen, and evaluate adult protective services programs provided by such local departments;
2. To assist local departments of social services in developing and implementing programs to respond to and prevent adult abuse, neglect, or exploitation;
3. To prepare, disseminate, and present educational programs and materials on adult abuse, neglect, and exploitation to mandated reporters and the public;
4. To establish minimum standards of training and provide educational opportunities to qualify ~~social~~ workers in the field of adult protective services to determine whether reports of adult abuse, neglect, or exploitation are substantiated. The Department shall establish and provide a uniform training program for adult protective services workers in the Commonwealth. All adult protective services workers shall complete such training within one year from the date of implementation of the training program or within the first year of their employment;
5. To develop policies and procedures to guide the work of persons in the field of adult protective services;
6. To prepare and disseminate statistical information on adult protective services in Virginia;
7. To operate an adult protective services 24-hour toll-free hotline and provide training and technical assistance to the hotline staff;
8. To provide coordination among the adult protective services program and other state agencies; and
9. To work collaboratively with other agencies in the Commonwealth to facilitate the reporting and investigation of suspected adult abuse, neglect, or exploitation.

§ 63.2-219. Board to establish employee entrance and performance standards.

The Board shall establish minimum education, professional and training requirements and performance standards for the personnel employed by the Commissioner and local boards in the administration of this title and adopt regulations to maintain such education, professional and training requirements and performance standards, including such regulations as may be embraced in the development of a system of personnel administration meeting requirements of the Department of Health and Human Services under appropriate federal legislation relating to programs administered by the Board. The Board shall adopt minimum education, professional and training requirements and performance standards for personnel to provide public assistance or social services.

The Board shall provide that the Department and its local boards or local departments shall not

employ any person in any ~~social work~~ *family-services specialist* position that provides direct client services unless that person holds at least a baccalaureate degree. Such requirement shall not be waived by the Department, Board, or any local director or local governing body, unless such person has been employed prior to January 1, 1999, by the Department or its local boards or local departments in a ~~social work~~ *family-services specialist* position that provides direct client services.

The state grievance procedure adopted pursuant to Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2 shall apply to the personnel employed by the Commissioner. A local social services department or local board shall adopt a grievance procedure that is either (i) adopted by the locality in which the department or board is located, or in the case of a regional department or board, the grievance procedure adopted by one of its localities in the regional organization; or (ii) approved by the Board consistent with the provisions of Chapter 30 (§ 2.2-3000 et seq.) of Title 2.2. The grievance procedure adopted by the local board shall apply to employees, including local directors, of the local boards and local departments.

§ 63.2-1225. Determination of appropriate home.

A. In determining the appropriate home in which to place a child for adoption, a married couple or an unmarried individual shall be eligible to receive placement of a child for purposes of adoption. Prior to or after the acceptance of custody of a child placed for adoption, a licensed child-placing agency or a local board shall consider the recommendations of the birth parent(s), a physician or attorney licensed in the Commonwealth, or a clergyman who is familiar with the situation of the prospective adoptive parent(s) or the child. No birth parent, physician, attorney or clergyman shall advertise that he is available to make recommendations, nor shall he charge any fee for such recommendations to a board or agency, except that an attorney may charge for legal fees and services rendered in connection with such placement.

B. The agency or local board may give consideration to placement of the child with the recommended adoptive parent(s) if the agency or local board finds that such placement is in the best interest of the child. When the birth parent(s) has recommended such placement, the agency or local board shall provide the birth parent(s) the opportunity to be represented by independent legal counsel as well as the opportunity for counseling with a social worker, *family-services specialist*, or *other qualified equivalent worker*. The agency or board also shall advise the prospective adoptive parent(s) of the right to be represented by independent legal counsel. The parties may, but are not required to, exchange identifying information as provided for in subdivision A 3 of § 63.2-1232.

§ 63.2-1226. When birth parents recommend adoptive parents.

When a licensed child-placing agency or a local board is requested to accept custody of a child for the purpose of placing the child with adoptive parent(s) recommended by the birth parent(s) or a person other than a licensed child-placing agency or local board, either the parental placement adoption provisions or the agency adoption provisions of this chapter shall apply to such placement at the election of the birth parent(s). Such agency or local board shall provide information to the birth parent(s) regarding the parental placement adoption and agency adoption provisions and shall provide the birth parent the opportunity to be represented by independent legal counsel as well as counseling with a social worker, *family-services specialist*, or *other qualified equivalent worker*. No person shall charge, pay, give, or agree to give or accept any money, property, services, or other thing of value in connection with such adoption except as provided in § 63.2-1218.

§ 63.2-1231. Home study; meeting required; exception.

A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency and the prospective adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department in accordance with regulations adopted by the Board. The home study shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, A 2, A 3, and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker, *family-services specialist*, or *other qualified equivalent worker* shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings may occur simultaneously or separately.

B. Any home study conducted pursuant to this section for the purpose of parental placement or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the home study.

§ 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 nursery school;
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 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; and
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.

This subsection shall not apply to any regular minister, priest, rabbi, imam, or duly accredited practitioner of any religious organization or denomination usually referred to as a church as it relates to (i) information required by the doctrine of the religious organization or denomination to be kept in a confidential manner or (ii) information that would be subject to § 8.01-400 or 19.2-271.3 if offered as evidence in court.

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

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

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the Board. Any person required to make the report pursuant to this subsection shall disclose all information that is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department, which is the agency of jurisdiction, any information, records, or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report

shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g). Provision of such information, records, and reports by a health care provider shall not be prohibited by § 8.01-399. Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by a health care provider within six weeks of the birth of a child that the results of toxicology studies of the child indicate the presence of a controlled substance not prescribed for the mother by a physician; (ii) a finding made by a health care provider within six weeks of the birth of a child that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms; (iii) a diagnosis made by a health care provider at any time following a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child; or (iv) a diagnosis made by a health care provider at any time following a child's birth that the child has a fetal alcohol spectrum disorder attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

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

D. Any person required to file a report pursuant to this section who fails to do so as soon as possible, but not longer than 24 hours after having reason to suspect a reportable offense of child abuse or neglect, shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$1,000. In cases evidencing acts of rape, sodomy, or object sexual penetration as defined in Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, a person who knowingly and intentionally fails to make the report required pursuant to this section shall be guilty of a Class 1 misdemeanor.

E. No person shall be required to make a report pursuant to this section if the person has actual knowledge that the same matter has already been reported to the local department or the Department's toll-free child abuse and neglect hotline.

2. That an emergency exists and this act is in force from its passage.