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HOUSE BILL NO. 486

Offered January 8, 2014

Prefiled January 6, 2014

A BILL to amend and reenact §§ 63.2-1502, 63.2-1509, and 63.2-1510 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1503.1, relating to human trafficking of children; reports and investigation.

Patrons—Hugo and Villanueva

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1502, 63.2-1509, and 63.2-1510 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1503.1 as follows:

§ 63.2-1502. Establishment of Child-Protective Services Unit; duties.

There is created a Child-Protective Services Unit in the Department that shall have the following powers and duties:

1. To evaluate and strengthen all local, regional, and state programs dealing with child abuse and neglect *and human trafficking of children.*

2. To assume primary responsibility for directing the planning and funding of child-protective services *and services for children who are the victims of human trafficking.* This shall include reviewing and approving the annual proposed plans and budgets for protective services submitted by the local departments.

3. To assist in developing programs aimed at discovering and preventing the many factors causing child abuse and neglect.

4. To prepare and disseminate, including the presentation of, educational programs and materials on child abuse and neglect *and human trafficking of children.*

5. To provide educational programs for professionals required by law to make reports under this chapter.

6. To establish standards of training and provide educational programs to qualify workers in the field of child-protective services. Such standards of training shall include provisions regarding the legal duties of the workers in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment.

7. To establish standards of training and educational programs to qualify workers to determine whether complaints of abuse or neglect of a child in a private or state-operated hospital, institution, or other facility, or a public school, are founded.

8. To maintain staff qualified pursuant to Board regulations to assist local department personnel in determining whether 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.

9. To monitor the processing and determination of cases where an employee of 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.

10. To help coordinate child-protective services at the state, regional, and local levels with the efforts of other state and voluntary social, medical, and legal agencies.

11. To maintain a child abuse and neglect information system that includes all cases of child abuse and neglect within the Commonwealth.

12. To provide for methods to preserve the confidentiality of all records in order to protect the rights of the child, and his parents or guardians.

13. To establish minimum training requirements for workers and supervisors on family abuse and domestic violence, including the relationship between domestic violence and child abuse and neglect, *and on human trafficking of children.*

§ 63.2-1503.1. Child-protective services; human trafficking of children.

A. Local departments shall be the public agency responsible for receiving and responding to reports of suspected human trafficking of children. Upon receipt of a report of suspected human trafficking of children, the local department shall determine the validity of the report. A report shall be valid if the local department, after evaluation of the information and allegations in the report, determines that an investigation should be conducted because (i) the alleged victim is a child, (ii) the circumstances described provide reason to believe the child is a victim of human trafficking, and (iii) the local

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59 department receiving the complaint has jurisdiction. If the local department does not have jurisdiction
60 but requirements of subdivisions (i) and (ii) are met, the local department shall immediately notify the
61 local department for the appropriate jurisdiction.

62 B. If the local department determines that the report is valid, the local department shall (i) report
63 immediately to the attorney for the Commonwealth and the local law-enforcement agency and shall
64 coordinate an investigation with and make records related to the investigation available to the local
65 attorney for the Commonwealth and local law-enforcement agency and (ii) conduct an investigation in
66 accordance with subsection C. In cases involving the death of a child believed to be the victim of human
67 trafficking, the local department shall report the case immediately to the regional medical examiner and
68 the local law-enforcement agency. In no case shall a local department allow reports from other local
69 agencies to substitute for direct reports to the attorney for the Commonwealth, local law-enforcement
70 agency, or regional medical examiner. The local department shall develop, when practicable,
71 memoranda of understanding for responding to reports of human trafficking of children with local law
72 enforcement and the attorney for the Commonwealth.

73 C. Upon receipt of a valid report of suspected human trafficking of a child, the local department
74 shall use reasonable diligence to locate the child who is alleged to be a victim of human trafficking and
75 shall conduct an investigation and, upon determining that a child is the victim of human trafficking,
76 shall (i) determine the immediate safety needs of the child and the protective and rehabilitative service
77 needs of the child and his family, (ii) arrange for and provide necessary services to the child and his
78 family, and (iii) complete and transmit, within 45 days, a report setting forth the finding and
79 information about services provided to the child and his family.

80 D. In cases in which a child who is believed to be a victim of human trafficking has been relocated
81 out of the jurisdiction of the local department, the local department shall notify the local department for
82 the jurisdiction to which the child has been moved. Upon receipt of notification that a child believed to
83 be a victim of human trafficking has been relocated to the jurisdiction it services, a local department
84 shall be responsible for completing the investigation in cooperation with the local department that
85 initiated the investigation.

86 E. The local department shall report annually on its activities concerning investigation of reports of
87 suspected human trafficking of children and services provided to children who are victims of human
88 trafficking and their families to the Child-Protective Services Unit of the Department.

89 **§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses,**
90 **teachers, etc.; penalty for failure to report.**

91 A. The following persons who, in their professional or official capacity, have reason to suspect that a
92 child is an abused or neglected child; or a victim of human trafficking shall report the matter
93 immediately to the local department of the county or city wherein the child resides or wherein the abuse
94 or neglect or human trafficking is believed to have occurred or to the Department's toll-free child abuse
95 and neglect hotline:

- 96 1. Any person licensed to practice medicine or any of the healing arts;
- 97 2. Any hospital resident or intern; and any person employed in the nursing profession;
- 98 3. Any person employed as a social worker;
- 99 4. Any probation officer;
- 100 5. Any teacher or other person employed in a public or private school, kindergarten, or nursery
- 101 school;
- 102 6. Any person providing full-time or part-time child care for pay on a regularly planned basis;
- 103 7. Any mental health professional;
- 104 8. Any law-enforcement officer or animal control officer;
- 105 9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
- 106 10. Any professional staff person, not previously enumerated, employed by a private or state-operated
- 107 hospital, institution, or facility to which children have been committed or where children have been
- 108 placed for care and treatment;
- 109 11. Any person 18 years of age or older associated with or employed by any public or private
- 110 organization responsible for the care, custody, or control of children;
- 111 12. Any person who is designated a court-appointed special advocate pursuant to Article 5 (§ 9.1-151
- 112 et seq.) of Chapter 1 of Title 9.1;
- 113 13. Any person 18 years of age or older who has received training approved by the Department of
- 114 Social Services for the purposes of recognizing and reporting child abuse and neglect or human
- 115 trafficking of children;
- 116 14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility
- 117 for public assistance;
- 118 15. Any emergency medical services provider certified by the Board of Health pursuant to
- 119 § 32.1-111.5, unless such provider immediately reports the matter directly to the attending physician at
- 120 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 *or the human trafficking of the child* 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 *or involvement in the human trafficking of a child*, the report shall be made to the court of the county or city where the abuse or neglect *or the human trafficking of a child* 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 *or human trafficking of a child* 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 *or human trafficking 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 *or human trafficking of a child* 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

182 report, records, information, or testimony, unless such person acted in bad faith or with malicious
183 purpose.

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

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

194 **§ 63.2-1510. Complaints by others of certain injuries to children.**

195 Any person who suspects that a child is an abused or neglected child *or a victim of human*
196 *trafficking* may make a complaint concerning such child, except as hereinafter provided, to the local
197 department of the county or city wherein the child resides or wherein the abuse or neglect *or human*
198 *trafficking of a child* is believed to have occurred or to the Department's toll-free child abuse and
199 neglect hotline. If an employee of the local department is suspected of abusing or neglecting a child *or*
200 *involvement in the human trafficking of a child*, the complaint shall be made to the court of the county
201 or city where the abuse or neglect *or human trafficking of the child* was discovered. Upon receipt of
202 such a report by the court, the judge shall assign the report to a local department that is not the
203 employer of the suspected employee for investigation or family assessment; or, if the judge believes that
204 no local department in a reasonable geographic distance can be impartial in responding to the reported
205 case, the judge shall assign the report to the court service unit of his court for evaluation. The judge
206 may consult with the Department in selecting a local department to respond to the report or complaint.
207 Such a complaint may be oral or in writing and shall disclose all information which is the basis for the
208 suspicion of abuse or neglect *or human trafficking* of the child.