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SENATE BILL NO. 868

Offered January 11, 2017

Prefiled December 7, 2016

A BILL to amend and reenact §§ 63.2-1503 and 63.2-1508 of the Code of Virginia, relating to child-protective services; investigation of complaints of child abuse or neglect where child is one year of age or younger.

Patrons—Favola; Delegates: Kory and Murphy

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1503 and 63.2-1508 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1503. 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 that shall be staffed with qualified personnel pursuant to regulations adopted by the Board. The local department shall be the public agency responsible for receiving and responding to complaints and reports, except that (i) in cases where the reports or complaints are to be made to the court and the judge determines that no local department within a reasonable geographic distance can impartially respond to the report, the court shall assign the report to the court services unit for evaluation; 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 and the relevant private or state-operated hospital, institution or other facility, or school board to assist in conducting a joint investigation in accordance with regulations adopted by the Board, in consultation with the Departments of Education, Health, Medical Assistance Services, Behavioral Health and Developmental Services, Juvenile Justice and Corrections.

B. 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 24-hours-a-day, seven-days-per-week basis.

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

D. The local department shall notify the local attorney for the Commonwealth and the local law-enforcement agency of all complaints of suspected child abuse or neglect involving (i) any death of a child; (ii) any 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, immediately, but in no case more than two hours of receipt of the complaint, and shall provide the attorney for the Commonwealth and the local law-enforcement agency with records and information of the local department, including records related to any complaints of abuse or neglect involving the victim or the alleged perpetrator, related to the investigation of the complaint. 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. The local department shall develop, when practicable, memoranda of understanding for responding to reports of child abuse and neglect with local law enforcement and the attorney for the Commonwealth.

In each case in which the local department notifies the local law-enforcement agency of a complaint pursuant to this subsection, the local department shall, within two business days of delivery of the notification, complete a written report, on a form provided by the Board for such purpose, which shall include (a) the name of the representative of the local department providing notice required by this subsection; (b) the name of the local law-enforcement officer who received such notice; (c) the date and time that notification was made; (d) the identity of the victim; (e) the identity of the person alleged to have abused or neglected the child, if known; (f) the clause or clauses in this subsection that describe the reasons for the notification; and (g) the signatures, which may be electronic signatures, of the representatives of the local department making the notification and the local law-enforcement officer receiving the notification. Such report shall be included in the record of the investigation and may be submitted either in writing or electronically.

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59 E. When abuse or neglect is suspected in any case involving the death of a child, the local
60 department shall report the case immediately to the regional medical examiner and the local
61 law-enforcement agency.

62 F. The local department shall use reasonable diligence to locate (i) any child for whom a report of
63 suspected abuse or neglect has been received and is under investigation, receiving family assessment, or
64 for whom a founded determination of abuse and neglect has been made and a child-protective services
65 case opened and (ii) persons who are the subject of a report that is under investigation or receiving
66 family assessment, if the whereabouts of the child or such persons are unknown to the local department.

67 G. When an abused or neglected child and the persons who are the subject of an open
68 child-protective services case have relocated out of the jurisdiction of the local department, the local
69 department shall notify the child-protective services agency in the jurisdiction to which such persons
70 have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant
71 portions of the case record. The receiving local department shall arrange protective and rehabilitative
72 services as required by this section.

73 H. When a child for whom a report of suspected abuse or neglect has been received and is under
74 investigation or receiving family assessment and the child and the child's parents or other persons
75 responsible for the child's care who are the subject of the report that is under investigation or family
76 assessment have relocated out of the jurisdiction of the local department, the local department shall
77 notify the child-protective services agency in the jurisdiction to which the child and such persons have
78 relocated, whether inside or outside of the Commonwealth, and complete such investigation or family
79 assessment by requesting such agency's assistance in completing the investigation or family assessment.
80 The local department that completes the investigation or family assessment shall forward to the receiving
81 agency relevant portions of the case record in order for the receiving agency to arrange protective and
82 rehabilitative services as required by this section.

83 I. Upon receipt of a report of child abuse or neglect, the local department shall determine the validity
84 of such report and shall make a determination to conduct an investigation pursuant to § 63.2-1505 or, if
85 designated as a child-protective services differential response agency by the Department according to
86 § 63.2-1504, a family assessment pursuant to § 63.2-1506. *The local department shall investigate all*
87 *reports and complaints that allege suspected abuse or neglect of a child one year of age or younger.*

88 J. The local department shall foster, when practicable, the creation, maintenance and coordination of
89 hospital and community-based multidisciplinary teams that shall include where possible, but not be
90 limited to, members of the medical, mental health, social work, nursing, education, legal and
91 law-enforcement professions. Such teams shall assist the local departments in identifying abused and
92 neglected children; coordinating medical, social, and legal services for the children and their families;
93 developing innovative programs for detection and prevention of child abuse; promoting community
94 concern and action in the area of child abuse and neglect; and disseminating information to the general
95 public with respect to the problem of child abuse and neglect and the facilities and prevention and
96 treatment methods available to combat child abuse and neglect. These teams may be the family
97 assessment and planning teams established pursuant to § 2.2-5207. Multidisciplinary teams may develop
98 agreements regarding the exchange of information among the parties for the purposes of the
99 investigation and disposition of complaints of child abuse and neglect, delivery of services and child
100 protection. Any information exchanged in accordance with the agreement shall not be considered to be a
101 violation of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

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

104 K. The local department may develop multidisciplinary teams to provide consultation to the local
105 department during the investigation of selected cases involving child abuse or neglect, and to make
106 recommendations regarding the prosecution of such cases. These teams may include, but are not limited
107 to, members of the medical, mental health, legal and law-enforcement professions, including the attorney
108 for the Commonwealth or his designee; a local child-protective services representative; and the guardian
109 ad litem or other court-appointed advocate for the child. Any information exchanged for the purpose of
110 such consultation shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

111 L. The local department shall report annually on its activities concerning abused and neglected
112 children to the court and to the Child-Protective Services Unit in the Department on forms provided by
113 the Department.

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

121 an attorney, one will be appointed for him prior to any questioning.

122 N. Notwithstanding any other provision of law, the local department, in accordance with Board
123 regulations, shall transmit information regarding founded complaints or family assessments and may
124 transmit other information regarding reports, complaints, family assessments and investigations involving
125 active duty military personnel or members of their household to family advocacy representatives of the
126 United States Armed Forces.

127 O. The local department shall notify the custodial parent and make reasonable efforts to notify the
128 noncustodial parent as those terms are defined in § 63.2-1900 of a report of suspected abuse or neglect
129 of a child who is the subject of an investigation or is receiving family assessment, in those cases in
130 which such custodial or noncustodial parent is not the subject of the investigation.

131 P. The local department shall notify the Superintendent of Public Instruction when an individual
132 holding a license issued by the Board of Education is the subject of a founded complaint of child abuse
133 or neglect and shall transmit identifying information regarding such individual if the local department
134 knows the person holds a license issued by the Board of Education and after all rights to any appeal
135 provided by § 63.2-1526 have been exhausted. Any information exchanged for the purpose of this
136 subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

137 **§ 63.2-1508. Valid report or complaint.**

138 A valid report or complaint means the local department has evaluated the information and allegations
139 of the report or complaint and determined that the local department shall conduct an investigation or
140 family assessment because *the report or complaint alleges suspected child abuse or neglect of a child*
141 *one year of age or younger* or the following elements are present:

142 1. The alleged victim child or children are under the age of eighteen at the time of the complaint or
143 report;

144 2. The alleged abuser is the alleged victim child's parent or other caretaker;

145 3. The local department receiving the complaint or report has jurisdiction; and

146 4. The circumstances described allege suspected child abuse or neglect.

147 Nothing in this section shall relieve any person specified in § 63.2-1509 from making a report
148 required by that section, regardless of the identity of the person suspected to have caused such abuse or
149 neglect.