

19104111D

HOUSE BILL NO. 2597

Offered January 9, 2019

A BILL to amend and reenact §§ 63.2-1506, 63.2-1508, and 63.2-1517 of the Code of Virginia, relating to child abuse and neglect; report or complaint; victims of sex trafficking; taking child victim into custody.

Patrons—Herring and Delaney

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1506, 63.2-1508, and 63.2-1517 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1506. Family assessments by local departments.

A. A family assessment requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.

B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:

1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;
2. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;
3. Complete the family assessment within 45 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment. However, upon written justification by the local department, the family assessment may be extended, not to exceed a total of 60 days;
4. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;
5. Petition the court for services deemed necessary;
6. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515; and
7. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required.

C. When a local department has been designated as a child-protective services differential response agency by the Department, the local department may investigate any report of child abuse or neglect, but the following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii) abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or approved family day home, private or public school, hospital or any institution. If a report or complaint is based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct a family assessment, unless an investigation is required

INTRODUCED

HB2597

59 pursuant to this subsection or other provision of law or is necessary to protect the safety of the child,
60 and (b) develop a plan of safe care in accordance with federal law, regardless of whether the local
61 department makes a finding of abuse or neglect.

62 *D. If a report or complaint is based upon information and allegations that a child is a victim of sex*
63 *trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of*
64 *2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L.*
65 *114-22), the local department shall conduct a family assessment, unless an investigation is required*
66 *pursuant to this section or other provision of law or is necessary to protect the safety of the child. In*
67 *the event that the parents or guardians of the child reside in a jurisdiction other than where the report*
68 *or complaint was received, the local department that received the report or complaint and the local*
69 *department where the child resides with his parents or guardians shall work jointly to complete the*
70 *family assessment or investigation. The local department shall also notify the Child-Protective Services*
71 *Unit within the Department in writing whenever such family assessment or investigation is conducted.*

72 **§ 63.2-1508. Valid report or complaint.**

73 A. A valid report or complaint means the local department has evaluated the information and
74 allegations of the report or complaint and determined that the local department shall conduct an
75 investigation or family assessment because the following elements are present:

76 1. The alleged victim child or children are under ~~the age of eighteen~~ *18 years of age* at the time of
77 the complaint or report;

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

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

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

81 *B. A valid report or complaint regarding a child who has been identified as a victim of sex*
82 *trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of*
83 *2000 (22 U.S.C § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L.*
84 *114-22) may be established if the alleged abuser is the alleged victim child's parent, other caretaker, or*
85 *any other person suspected to have caused such abuse or neglect.*

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

89 **§ 63.2-1517. Authority to take child into custody.**

90 A. A physician or child-protective services worker of a local department or law-enforcement official
91 investigating a report or complaint of abuse and neglect may take a child into custody for up to 72
92 hours without prior approval of parents or guardians provided:

93 1. The circumstances of the child are such that continuing in his place of residence or in the care or
94 custody of the parent, guardian, custodian or other person responsible for the child's care, presents an
95 imminent danger to the child's life or health to the extent that severe or irreparable injury would be
96 likely to result or if evidence of abuse is perishable or subject to deterioration before a hearing can be
97 held;

98 2. A court order is not immediately obtainable;

99 3. The court has set up procedures for placing such children;

100 4. Following taking the child into custody, the parents or guardians are notified as soon as
101 practicable. Every effort shall be made to provide such notice in person;

102 5. A report is made to the local department; and

103 6. The court is notified and the person or agency taking custody of such child obtains, as soon as
104 possible, but in no event later than 72 hours, an emergency removal order pursuant to § 16.1-251;
105 however, if a preliminary removal order is issued after a hearing held in accordance with § 16.1-252
106 within 72 hours of the removal of the child, an emergency removal order shall not be necessary. Any
107 person or agency petitioning for an emergency removal order after four hours have elapsed following
108 taking custody of the child shall state the reasons therefor pursuant to § 16.1-251.

109 B. If the 72-hour period for holding a child in custody and for obtaining a preliminary or emergency
110 removal order expires on a Saturday, Sunday, or legal holiday or day on which the court is lawfully
111 closed, the 72 hours shall be extended to the next day that is not a Saturday, Sunday, or legal holiday or
112 day on which the court is lawfully closed.

113 C. A child-protective services worker of a local department responding to a complaint or report of
114 abuse and neglect for purposes of sex trafficking or severe forms of trafficking shall take a child into
115 custody and the local department may maintain custody of the child for up to 72 hours without prior
116 approval of a parent or guardian, provided that the alleged victim child or children have been identified
117 as a victim or victims of sex trafficking or a victim or victims of severe forms of trafficking as defined in
118 the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and in the federal
119 Justice for Victims of Trafficking Act of 2015 (P.L. 114-22). After taking the child into custody, the local
120 department shall notify the parent or guardian of such child as soon as practicable. Every effort shall

121 *be made to provide such notice in person. The local department shall also notify the Child-Protective*
122 *Services Unit within the Department whenever a child is taken into custody.*

123 *D. When a child is taken into custody by a child-protective services worker of a local department*
124 *pursuant to subsection C, that child shall be returned as soon as practicable to the custody of his*
125 *parent or guardian. However, the local department shall not be required to return the child to his*
126 *parent or guardian if the circumstances are such that continuing in his place of residence or in the care*
127 *or custody of such parent or guardian, or custodian or other person responsible for the child's care,*
128 *presents an imminent danger to the child's life or health to the extent that severe or irremediable injury*
129 *would be likely to result or if the evidence of abuse is perishable or subject to deterioration before a*
130 *hearing can be held.*