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HOUSE BILL NO. 289

Offered January 8, 2020

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A BILL to amend and reenact §§ 15.2-1627.5 and 63.2-1503 of the Code of Virginia, relating to child abuse; interviews.

Patron—Gooditis

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-1627.5 and 63.2-1503 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-1627.5. Coordination of multidisciplinary response to child sexual abuse and the abuse, neglect, and exploitation of adults.

A. The attorney for the Commonwealth in each jurisdiction in the Commonwealth shall establish a multidisciplinary child sexual abuse response team, which may be an existing multidisciplinary team. The multidisciplinary team shall conduct regular reviews of new and ongoing reports of felony sex offenses in the jurisdiction involving a child and the investigations thereof and, at the request of any member of the team, may conduct reviews of any other reports of child abuse and neglect or sex offenses in the jurisdiction involving a child and the investigations thereof. The multidisciplinary team shall meet frequently enough to ensure that no new or ongoing reports go more than 60 days without being reviewed by the team. All interviews of child victims of alleged sexual abuse conducted during investigations by such multidisciplinary response teams shall be conducted as a forensic interview at the child advocacy center serving the jurisdiction in accordance with the center's protocol, unless a forensic interview is not appropriate based on the child's age and development or the center's protocol. If no child advocacy center serves the jurisdiction, such interviews may be conducted, as appropriate, at a child advocacy center serving another jurisdiction.

B. The following individuals, or their designees, shall participate in review meetings of the multidisciplinary team established pursuant to subsection A: the attorney for the Commonwealth; law-enforcement officials responsible for the investigation of sex offenses involving a child in the jurisdiction; a representative of the local child protective services unit; a representative of a child advocacy center serving the jurisdiction, if one exists; and a representative of an Internet Crimes Against Children task force affiliate agency serving the jurisdiction, if one exists. In addition, the attorney for the Commonwealth may invite other individuals, or their designees, including the school superintendent of the jurisdiction; a representative of any sexual assault crisis center serving the jurisdiction, if one exists; the director of the victim/witness program serving the jurisdiction, if one exists; and a health professional knowledgeable in the treatment and provision of services to children who have been sexually abused.

C. The attorney for the Commonwealth in each jurisdiction may also establish a multidisciplinary adult abuse, neglect, and exploitation response team to review cases of abuse, neglect, and exploitation of adults as defined in § 63.2-1603. The multidisciplinary team may be established separately or in conjunction with any already existing multidisciplinary team.

§ 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

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59 with other local agencies, the capability of receiving reports or complaints and responding to them
60 promptly on a 24-hours-a-day, seven-days-per-week basis.

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

63 D. The local department shall notify the local attorney for the Commonwealth and the local
64 law-enforcement agency of all complaints of suspected child abuse or neglect involving (i) any death of
65 a child; (ii) any injury or threatened injury to the child in which a felony or Class 1 misdemeanor is
66 also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child,
67 including but not limited to the use or display of the child in sexually explicit visual material, as defined
68 in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense
69 involving a child; or (vi) contributing to the delinquency of a minor in violation of § 18.2-371,
70 immediately, but in no case more than two hours of receipt of the complaint, and shall provide the
71 attorney for the Commonwealth and the local law-enforcement agency with records and information of
72 the local department, including records related to any complaints of abuse or neglect involving the
73 victim or the alleged perpetrator, related to the investigation of the complaint. The local department shall
74 notify the local attorney for the Commonwealth of all complaints of suspected child abuse or neglect
75 involving the child's being left alone in the same dwelling with a person to whom the child is not
76 related by blood or marriage and who has been convicted of an offense against a minor for which
77 registration is required as a violent sexual offender pursuant to § 9.1-902, immediately, but in no case
78 more than two hours of receipt of the complaint, and shall provide the attorney for the Commonwealth
79 with records and information of the local department that would help determine whether a violation of
80 post-release conditions, probation, parole, or court order has occurred due to the nonrelative sexual
81 offender's contact with the child. The local department shall not allow reports of the death of the victim
82 from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the
83 local law-enforcement agency. The local department shall develop, when practicable, memoranda of
84 understanding for responding to reports of child abuse and neglect with local law enforcement and the
85 attorney for the Commonwealth. *Such memoranda of understanding shall (a) require that interviews of*
86 *child victims of alleged sexual abuse be conducted as a forensic interview at the child advocacy center*
87 *servicing the jurisdiction in accordance with the center's protocol, unless a forensic interview is not*
88 *appropriate based on the child's age and development or the center's protocol, and (b) if no child*
89 *advocacy center serves the jurisdiction, allow such interviews to be conducted, as appropriate, at a*
90 *child advocacy center servicing another jurisdiction.*

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

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

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

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

116 H. When a child for whom a report of suspected abuse or neglect has been received and is under
117 investigation or receiving family assessment and the child and the child's parents or other persons
118 responsible for the child's care who are the subject of the report that is under investigation or family
119 assessment have relocated out of the jurisdiction of the local department, the local department shall
120 notify the child-protective services agency in the jurisdiction to which the child and such persons have

121 relocated, whether inside or outside of the Commonwealth, and complete such investigation or family
122 assessment by requesting such agency's assistance in completing the investigation or family assessment.
123 The local department that completes the investigation or family assessment shall forward to the receiving
124 agency relevant portions of the case record in order for the receiving agency to arrange protective and
125 rehabilitative services as required by this section.

126 I. Upon receipt of a report of child abuse or neglect, the local department shall determine the validity
127 of such report and shall make a determination to conduct an investigation pursuant to § 63.2-1505 or, if
128 designated as a child-protective services differential response agency by the Department according to
129 § 63.2-1504, a family assessment pursuant to § 63.2-1506.

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

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

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

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

156 M. Statements, or any evidence derived therefrom, made to local department child-protective services
157 personnel, or to any person performing the duties of such personnel, by any person accused of the
158 abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in
159 the case-in-chief against such person in the criminal proceeding on the question of guilt or innocence
160 over the objection of the accused, unless the statement was made after such person was fully advised (i)
161 of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii)
162 that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford
163 an attorney, one will be appointed for him prior to any questioning.

164 N. Notwithstanding any other provision of law, the local department, in accordance with Board
165 regulations, shall transmit information regarding reports, complaints, family assessments, and
166 investigations involving children of active duty members of the United States Armed Forces or members
167 of their household to family advocacy representatives of the United States Armed Forces.

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

172 P. The local department shall (i) notify the Superintendent of Public Instruction without delay when
173 an individual holding a license issued by the Board of Education is the subject of a founded complaint
174 of child abuse or neglect and shall transmit identifying information regarding such individual if the local
175 department knows the person holds a license issued by the Board of Education and (ii) notify the
176 Superintendent of Public Instruction without delay if the founded complaint of child abuse or neglect is
177 dismissed following an appeal pursuant to § 63.2-1526. Nothing in this subsection shall be construed to
178 affect the rights of any individual holding a license issued by the Board of Education to any hearings or
179 appeals otherwise provided by law. Any information exchanged for the purpose of this subsection shall
180 not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.