

LD5336388

## HOUSE BILL NO. 690

Offered January 25, 1994

A BILL to amend and reenact § 63.1-248.6 of the Code of Virginia, as it is currently effective and as it may become effective, relating to child protective services.

Patrons—Orrock; Senator: Saslaw

Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That § 63.1-248.6 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:**

§ 63.1-248.6. (For effective date - See note) 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 which shall be staffed with qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local department shall be the public agency responsible for receiving and *for investigating, in cooperation with the local law-enforcement agency*, complaints and reports, except that (i) in cases where the reports or complaints are to be made to the juvenile and domestic relations district court, the court shall be responsible for the investigation 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 to assist in conducting the investigation in accordance with rules and regulations approved by the State Board.

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that 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, are qualified and assisted by the Department in accordance with State Board regulations.

C. 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 twenty-four-hours-a-day, seven-days-per-week basis.

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

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation *in cooperation with the local law-enforcement agency*;

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry;

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such removal;

5. Report immediately to the attorney for the Commonwealth and make available to him the records of the local department upon which such report is based, when abuse or neglect is suspected in any case involving (i) death of a child; (ii) 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, and provide the attorneys for the Commonwealth with records of any prior founded disposition of complaints of abuse or neglect involving the victim. The local department shall not allow reports of the death of the victim from other local agencies to substitute for a direct report to the attorney for the Commonwealth;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry;

8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant

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60 and parent or guardian and the person responsible for the care of the child in those cases where such  
61 person was suspected of abuse or neglect; and

62 9. When abuse or neglect is suspected in any case involving the death of a child, report the case  
63 immediately to the regional medical examiner and the local law-enforcement agency.

64 F. The local department shall foster, when practicable, the creation, maintenance and coordination of  
65 hospital and community-based multi-discipline teams which shall include where possible, but not be  
66 limited to, members of the medical, mental health, social work, nursing, education, legal and  
67 law-enforcement professions. Such teams shall assist the local departments in identifying abused and  
68 neglected children; coordinating medical, social, and legal services for the children and their families;  
69 developing innovative programs for detection and prevention of child abuse; promoting community  
70 concern and action in the area of child abuse and neglect; and disseminating information to the general  
71 public with respect to the problem of child abuse and neglect and the facilities and prevention and  
72 treatment methods available to combat child abuse and neglect. These teams may be the family  
73 assessment and planning teams established pursuant to § 2.1-753. The local department shall also  
74 coordinate its efforts in the provision of these services for abused and neglected children with the judge  
75 and staff of the court.

76 G. The local department shall report annually on its activities concerning abused and neglected  
77 children to the court and to the Child-Protective Services Unit in the Department on forms provided by  
78 the Department.

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

87 I. Notwithstanding any other provision of law, the local department, in accordance with Board  
88 regulations, shall transmit information regarding founded complaints and may transmit other information  
89 regarding reports, complaints, and investigations involving active duty military personnel or members of  
90 their household to family advocacy representatives of the United States Armed Forces.

91 § 63.1-248.6. (Delayed effective date - See notes) Local departments to establish child-protective  
92 services; duties.

93 A. Each local department shall establish child-protective services under a departmental coordinator  
94 within such department or with one or more adjacent local departments which shall be staffed with  
95 qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local  
96 department shall be the public agency responsible for receiving and *for* investigating, *in cooperation*  
97 *with the local law-enforcement agency*, complaints and reports, except that (i) in cases where the reports  
98 or complaints are to be made to the family court, the court shall be responsible for the investigation and  
99 (ii) in cases where an employee at a private or state-operated hospital, institution or other facility, or an  
100 employee of a school board is suspected of abusing or neglecting a child in such hospital, institution or  
101 other facility, or public school, the local department shall request the Department to assist in conducting  
102 the investigation in accordance with rules and regulations approved by the State Board.

103 B. The local department shall ensure, through its own personnel or through cooperative arrangements  
104 with other local agencies, that personnel who investigate reports or complaints that an employee of a  
105 private or state-operated hospital, institution or other facility, or an employee of a school board, abused  
106 or neglected a child in such hospital, institution or other facility, or public school, are qualified and  
107 assisted by the Department in accordance with State Board regulations.

108 C. The local department shall ensure, through its own personnel or through cooperative arrangements  
109 with other local agencies, the capability of receiving reports or complaints and responding to them  
110 promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

111 D. The local department shall widely publicize a telephone number for receiving complaints and  
112 reports.

113 E. The local department shall upon receipt of a report or complaint:

114 1. Make immediate investigation *in cooperation with the local law-enforcement agency*;

115 2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and  
116 transmit it forthwith to the central registry;

117 3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be  
118 provided to the child and his family;

119 4. If removal of the child or his siblings from their home is deemed necessary, petition the court for  
120 such removal;

121 5. Report immediately to the attorney for the Commonwealth and make available to him the records

of the local department upon which such report is based, when abuse or neglect is suspected in any case involving (i) death of a child; (ii) 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, and provide the attorneys for the Commonwealth with records of any prior founded disposition of complaints of abuse or neglect involving the victim. The local department shall not allow reports of the death of the victim from other local agencies to substitute for a direct report to the attorney for the Commonwealth;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry;

8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; and

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

F. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multi-discipline teams which shall include where possible, but not be limited to, members of the medical, mental health, social work, nursing, education, legal and law-enforcement professions. Such teams shall assist the local departments in identifying abused and neglected children; coordinating medical, social, and legal services for the children and their families; developing innovative programs for detection and prevention of child abuse; promoting community concern and action in the area of child abuse and neglect; and disseminating information to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat child abuse and neglect. These teams may be the family assessment and planning teams established pursuant to § 2.1-753. The local department shall also coordinate its efforts in the provision of these services for abused and neglected children with the judge and staff of the court.

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

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

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