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HOUSE BILL NO. 291

Offered January 10, 1996

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 duties of local child protective services.

Patrons—Brickley, Almand, Davies, Plum, Puller and Van Yahres; Senator: Colgan

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 investigating 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 and the judge determines that no local department of social services within a reasonable geographic distance can impartially investigate the report, 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;

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 the local law-enforcement agency and make available to them the records of the local department 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 and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. 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;

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

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60 transmit a report to such effect to the central registry and to the person who is the subject of the
61 investigation. However, upon written justification by the local department, such determination may be
62 extended, not to exceed a total of sixty days;

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

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

68 10. *Actively attempt to locate persons who are the subject of an open child protective services case*
69 *or a one that is under investigation, if the whereabouts of such persons are unknown to the local*
70 *department;*

71 11. *When persons who are the subject of an open child protective services case or one that is under*
72 *investigation have relocated out of the jurisdiction of the local department, notify the child protective*
73 *services agency in the jurisdiction to which such persons have relocated, whether inside or outside of*
74 *the Commonwealth, and forward to such agency relevant portions of the case record; and*

75 12. *Complete any incomplete investigation or arrange protective and rehabilitative services as*
76 *required by this section upon receiving notification from another local department that persons located*
77 *in its jurisdiction are the subject of an open child protective services case or one that is under*
78 *investigation.*

79 F. The local department shall foster, when practicable, the creation, maintenance and coordination of
80 hospital and community-based multi-disciplinary teams which shall include where possible, but not be
81 limited to, members of the medical, mental health, social work, nursing, education, legal and
82 law-enforcement professions. Such teams shall assist the local departments in identifying abused and
83 neglected children; coordinating medical, social, and legal services for the children and their families;
84 developing innovative programs for detection and prevention of child abuse; promoting community
85 concern and action in the area of child abuse and neglect; and disseminating information to the general
86 public with respect to the problem of child abuse and neglect and the facilities and prevention and
87 treatment methods available to combat child abuse and neglect. These teams may be the family
88 assessment and planning teams established pursuant to § 2.1-753. Multi-disciplinary teams may develop
89 agreements regarding the exchange of information among the parties for the purposes of the
90 investigation and disposition of complaints of child abuse and neglect, delivery of services, and child
91 protection. Any information exchanged in accordance with the agreement shall not be considered to be a
92 violation of the provisions of § 63.1-53 or § 63.1-209.

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

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

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

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

110 § 63.1-248.6. (Delayed effective date - See notes) Local departments to establish child-protective
111 services; duties.

112 A. Each local department shall establish child-protective services under a departmental coordinator
113 within such department or with one or more adjacent local departments which shall be staffed with
114 qualified personnel pursuant to regulations promulgated by the State Board of Social Services. The local
115 department shall be the public agency responsible for receiving and investigating complaints and reports,
116 except that (i) in cases where the reports or complaints are to be made to the family court and the judge
117 determines that no local department of social services within a reasonable geographic distance can
118 impartially investigate the report, the court shall be responsible for the investigation and (ii) in cases
119 where an employee at a private or state-operated hospital, institution or other facility, or an employee of
120 a school board is suspected of abusing or neglecting a child in such hospital, institution or other facility,
121 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.

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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 the local law-enforcement agency and make available to them the records of the local department 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 and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. 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 and the local law-enforcement agency;

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 and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days;

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;

10. *Actively attempt to locate persons who are the subject of an open child protective services case or one that is under investigation, if the whereabouts of such persons are unknown to the local department.*

11. *When persons who are the subject of an open child protective services case or one that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record; and*

12. *Complete any incomplete investigation or arrange protective and rehabilitative services as required by this section upon receiving notification from another local department that persons located in its jurisdiction are the subject of an open child protective services case or one that is under investigation.*

F. The local department shall foster, when practicable, the creation, maintenance and coordination of hospital and community-based multi-disciplinary 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

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