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HOUSE BILL NO. 2831

Offered January 22, 2003

A BILL to amend and reenact §§ 63.2-1501 and 63.2-1505 of the Code of Virginia, relating to child protective services; standard of proof.

Patrons—Sears, Devolites, Melvin, Nixon, Reid and Welch; Senators: Bolling and Cuccinelli

Unanimous consent to introduce

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1501 and 63.2-1505 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-1501. Definitions.

As used in this chapter unless the context requires a different meaning:

"Complaint" means any information or allegation of abuse or neglect made orally or in writing other than the reports referred to below.

"Court" means the juvenile and domestic relations district court of the county or city.

"Founded" means that a review of the facts shows by clear and convincing evidence that child abuse and neglect have occurred. A determination that a complaint or report is founded shall be based primarily on first source evidence; in no instance shall a determination that a complaint is founded be based solely on indirect evidence or an anonymous complaint.

"Prevention" means efforts that (i) promote health and competence in people and (ii) create, promote and strengthen environments that nurture people in their development.

"Report" means an official document on which information is given concerning abuse and neglect and that is required to be made by persons designated herein and by local departments in those situations in which a complaint from the general public reveals suspected abuse or neglect.

§ 63.2-1505. Investigations by local departments.

A. An investigation 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. 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;

5. Whether abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation 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. Complete a report and transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of § 63.2-1509 and the mother sought substance abuse counseling or treatment prior to the child's birth;

3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within ~~forty-five~~45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. ~~However, upon~~ *The standard of proof in determining whether a report of abuse or neglect is founded shall be by clear and convincing evidence. Upon* written justification by the local department, such determination may be extended, not to exceed a total of ~~sixty~~60 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the ~~forty-five~~45-day or ~~sixty~~60-day period and documentation of such reasonable diligence shall be placed in the record; and

INTRODUCED

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