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HOUSE BILL NO. 2597

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 11, 2019)

(Patron Prior to Substitute—Delegate Herring)

A BILL to amend and reenact §§ 63.2-1508 and 63.2-1517 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1506.1, relating to child abuse and neglect; report or complaint; victims of sex trafficking; taking child victim into custody.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1508 and 63.2-1517 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1506.1 as follows:

§ 63.2-1506.1. Sex trafficking assessments by local departments.

A. If a report or complaint is based upon information and allegations that a child is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22), the local department shall conduct a sex trafficking assessment, unless at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.

B. A sex trafficking 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 the child's family that will deter abuse and neglect; and

3. Risk of future harm to the child.

C. When a local department responds to the report or complaint by conducting a sex trafficking assessment, the local department may:

1. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and the child's family;

2. Petition the court for services deemed necessary; or

3. Commence an immediate investigation or family assessment, if at any time during the sex trafficking assessment the local department determines that an investigation or family assessment is required pursuant to § 63.2-1505 or 63.2-1506.

D. In the event that the parents or guardians of the child reside in a jurisdiction other than that in which the report or complaint was received, the local department that received the report or complaint and the local department where the child resides with his parents or guardians shall work jointly to complete the sex trafficking assessment.

E. Reports or complaints for which a sex trafficking assessment is completed shall not be entered into the central registry contained in § 63.2-1515.

F. The local department or departments shall notify the Child Protective Services Unit within the Department in writing whenever such a sex trafficking assessment is conducted.

§ 63.2-1508. Valid report or complaint.

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

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

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

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

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

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

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

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

A. A physician or child-protective services worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to 72

60 hours without prior approval of parents or guardians provided:

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

66 2. A court order is not immediately obtainable;

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

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

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

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

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

81 C. A child-protective services worker of a local department responding to a complaint or report of
82 abuse and neglect for purposes of sex trafficking or severe forms of trafficking may take a child into
83 custody and the local department may maintain custody of the child for up to 72 hours without prior
84 approval of a parent or guardian, provided that the alleged victim child or children have been identified
85 as a victim or victims of sex trafficking or a victim or victims of severe forms of trafficking as defined in
86 the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and in the federal
87 Justice for Victims of Trafficking Act of 2015 (P.L. 114-22). After taking the child into custody, the local
88 department shall notify the parent or guardian of such child as soon as practicable. Every effort shall
89 be made to provide such notice in person. The local department shall also notify the Child-Protective
90 Services Unit within the Department whenever a child is taken into custody.

91 D. When a child is taken into custody by a child-protective services worker of a local department
92 pursuant to subsection C, that child shall be returned as soon as practicable to the custody of his
93 parent or guardian. However, the local department shall not be required to return the child to his
94 parent or guardian if the circumstances are such that continuing in his place of residence or in the care
95 or custody of such parent or guardian, or custodian or other person responsible for the child's care,
96 presents an imminent danger to the child's life or health to the extent that severe or irreparable injury
97 would be likely to result or if the evidence of abuse is perishable or subject to deterioration before a
98 hearing can be held. If the local department cannot return the child to the custody of his parents or
99 guardians within 72 hours, the local department shall obtain an emergency removal order pursuant to
100 § 16.1-251.