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Child Abuse
Report of the
Joint House and Senate
SUBCOMMITTEE ON CHILD ABUSE

Richmond, Virginia
January 20, 1974

TO: The Senate Committee on Health and Education
and
The House Committee on Health, Welfare and Institutions

I. Introduction.

In recent years, the number of reported cases of child abuse and neglect has spiralled upward at an alarming rate. In Virginia, communities, both urban and rural, which have undertaken child abuse and neglect prevention programs, have found that child abuse and neglect is a very serious problem. Many persons throughout the Commonwealth have become aware that the procedures for handling these tragic cases and the State legislation dealing with such cases has fallen far short of their expectations. For several years, persons dealing with all aspects of child abuse have indicated that there is a need for stronger legislation on this subject and a more comprehensive method of dealing with this subject. As a direct response

to this need, the General Assembly at its 1973 Session passed House Joint Resolution No. 228 which follows:

HOUSE JOINT RESOLUTION NO. 228

Authorizing the Committee on Health, Welfare and Institutions of the House of Delegates and the Committee on Education and Health of the Senate to study and report on the child abuse or neglect laws of the Commonwealth.

Whereas, the categories of persons charged with the responsibility of reporting child abuse or neglect under § 16.1-217.1 of the Code of Virginia are limited and do not include school teachers, school principals, law enforcement officers, ministers, psychologists, personnel of departments of public welfare other than registered and associate social workers, and other responsible persons who might otherwise have knowledge of such neglect or abuse but not fearful of reporting such, since they are not mentioned in current law; and

Whereas, only children under the age of sixteen are covered under current law, while a person does not attain the age of majority until age eighteen; and

Whereas, current law provides that abuse or neglect shall be reported only to "juvenile and domestic relations court of the county or city in which the child resides, or in which the injury is believed to have occurred or to the sheriff or chief of police of such county or city" both of which may be threatening in terms of rehabilitative work with those abusing the child, and there is no other agency or

combination of agencies mentioned in law to which abuse or neglect reports can be made for investigation; and

Whereas, there is no present provision for a central information center on child abuse or neglect which might be shared throughout the Commonwealth with appropriate private agencies, hospitals or physicians; and

Whereas, there presently is no adequate program in Virginia for treatment of parents who abuse their children; and

Whereas, it is recognized that children are the most valuable resource of this Commonwealth; now, therefore, be it

Resolved by the House of Delegates, the Senate concurring, That the Committee on Health, Welfare and Institutions of the House of Delegates and the Committee on Health, Welfare and Institutions of the House of Delegates and the Committee on Education and Health of the Senate are authorized, jointly and severally, to study and report on the possible need to strengthen the Commonwealth's child abuse or neglect laws with special emphasis on rehabilitative programs for the parents of abused children and on the development of procedures encouraging the reporting of incidents of child abuse.

All agencies of the State shall assist the Committees in their study. The Committees may conclude their study and make a final report to the General Assembly no later than September one, nineteen hundred seventy-three.

Pursuant to his authority under this Resolution, Delegate John Gray of Hampton, acting Chairman of the House Committee on Health, Welfare and Institutions, appointed Delegates Robert Gwathmey of Hanover, Donald G. Pendleton of Amherst, Mary A. Marshall of Arlington, William P. Robinson, Sr., of Norfolk, Eleanor P. Sheppard of Richmond, Frank M. Slayton of South Boston and himself to serve on the Joint Subcommittee. Senator Hunter B. Andrews of Hampton, Chairman of the Senate Committee on Health and Education, appointed Senators John C. Buchanan of Wise, Edward M. Holland of Arlington, Paul W. Manns of Bowling Green and David F. Thornton of Salem. Delegate Gwathmey was chosen to serve as Chairman of the Joint Subcommittee.

Governor A. Linwood Holton, pursuant to the Resolution's directive that all State agencies assist in the study, appointed a fourteen-member task force to study the problems of child abuse and report to the Joint Subcommittee on Child Abuse and the Secretary of Human Affairs, Otis L. Brown. The task force's directive was to give specific attention to strengthening the legislation concerning child abuse, providing a system for reporting child abuse cases and devising a method for following up on such reports. Due to the time constraint, the task force's report was limited to the recommendation of legislative changes.

The Joint Subcommittee, in early summer, undertook an exhaustive and comprehensive investigation of child abuse in the Commonwealth.

This investigation began with a fact-gathering stage which included collection of as much printed data as possible concerning the problem of child abuse and neglect and the method by which this problem has been confronted in other states. In addition, the Commission held five public hearings around the Commonwealth to gain firsthand knowledge of the facts concerning the problem of child abuse and neglect in this Commonwealth and the methods by which the various communities are dealing with such problem.

The Joint Subcommittee has concluded its deliberations and makes the following report to the two Committees.

II. Recommendations.

A. Introduction.

The Subcommittee has divided its recommendations into two distinct areas for the purposes of this report. The first area contains the changes in the substantive provisions of the Code of Virginia which are necessary to provide a means to deal with cases of child abuse. The second area contains the administrative procedure to be used in receiving reports of child abuse cases and the investigation and follow-up of a report of such a case.

B. Substantive Proposals.

The Joint Subcommittee recommends that the child abuse law should have three purposes: (1) to identify any child suspected of

being an abused or neglected child, (2) to assure that protective services are provided to such a child and his siblings, (3) to prevent any further abuse or neglect and to preserve the family of such a child by enhancing his parents' capacity for good child care.

The child abuse law should protect all children less than eighteen years of age or any person less than twenty-one years of age who is mentally or severely physically handicapped.

Child abuse should be defined as the creation or infliction of a physical injury upon a child or the creation of a substantial or continual risk of death, disfigurement, impairment of physical health or loss or impairment of bodily or emotional functions upon a child. In addition, child abuse should mean the creation of a situation which results in malnutrition in the child or the creation of a situation which results in sexual molestation of the child.

In order to make the reporting of child abuse and neglect cases more comprehensive, the Joint Subcommittee recommends that persons in the fields of health care, education, law enforcement and child care be required to report suspected cases of child abuse or neglect. In addition, the failure of such a person to report such a case should be punishable by a fine not to exceed one hundred dollars on the first offense and five hundred dollars on the second and subsequent offenses. In order to protect these persons and others who report a case of suspected child abuse or neglect, it is recommended by the Joint

Subcommittee that a person be immune from civil liability for reporting a case of child abuse or neglect, unless such a person can be shown to have acted with malicious intent.

The Joint Subcommittee recommends certain changes in the law of evidence as it regards child abuse or neglect cases. The husband-wife and physician-patient privilege shall not apply to such a case. In addition, the Joint Subcommittee recommends that there be a prima facie presumption of child abuse by the person responsible for the care of the child, if the person has sole custody of the child and the abuse or neglect occurs during the period of time when the child was in such a person's custody. Further, during the course of the investigation, photographs and X-rays of a child may be made without the consent of the child's parent or guardian and these photographs and X-rays may be used in any court proceeding involving a case of alleged child abuse or neglect.

The Joint Subcommittee recommends that a professional, which includes anyone required by law to report a case of child abuse or neglect, have the right to talk with a child without the consent or knowledge of such child's parent or guardian. This conversation may be introduced into evidence in any legal proceeding resulting from the report of a case of suspected child abuse or neglect.

The Joint Subcommittee recognizes the need to protect the child from further abuse and recommends that a physician, medical institution

or a duly designated member of the investigation team be allowed to retain the custody of such a child for a period not to exceed twenty-four hours, exclusive of holidays, Saturdays and Sundays, without a court order.

Finally, the juvenile and domestic relations district court should be allowed to order that an abused or neglected child, his siblings or his parents submit to a physical or psychiatric examination.

C. Administrative Procedure

As previously noted, the Joint Subcommittee investigated the best method to provide the needed services to receive, to deal with and to follow-up on reported child abuse and neglect cases. The following is the procedure which, the Joint Subcommittee feels, provides these services in the most efficient and effective manner.

The Joint Subcommittee, after much deliberation, determined that the best approach to the problem of child abuse was the use of a multi-disciplinary investigative team or similar agency. This team would be composed of representatives from each local agency currently dealing with child abuse. The members would be one social worker from the welfare or social services department, one public health nurse from a local health department, one member from a local law enforcement agency, one school teacher or other person employed by a local school board, and one member appointed by the juvenile and domestic relations district court. These individuals would be assigned on a full-time basis to this investigating team and would be on call on a twenty-four hour, seven-day-a-week basis to assure comprehensive coverage. Such team shall receive support from all local agencies providing services needed in child abuse or neglect cases.

Since the juvenile and domestic relations district courts are uniformly established throughout the State and are responsible for the welfare of the children in their respective districts, the Joint Subcommittee recommends that the chief judge of each juvenile and domestic relations district court be empowered by the use of a rule of court to determine whether such multi-disciplinary team will be responsible to his court or to the director of the local social services department or such similar agency in the district. In addition, such rule shall require each local agency mentioned above to designate a staff member to work full-time as a part of the team. Such rule shall provide for the payment of the salaries of the team members from the funds made available for such purpose. If such rule, states that team shall work under the jurisdiction of the court, the rule shall also designate one member of the team to direct the activities of the team.

The investigating team shall be responsible for the receipt of all reports or complaints regarding child abuse and neglect, for reporting such complaints or reports to the Central State Registry, for the initial investigation and follow-up investigations of such a report or complaint, and for the education of the general public concerning child abuse.

The local teams will receive support at the State level from a proposed Office of Child Abuse Information and Education to be located within the Office of the Governor under the supervision of the Secretary of Human Affairs.

This office will maintain a Central State Registry which will be

be a repository of all child abuse and neglect reports and complaints. Each report or complaint shall contain a brief record of the alleged case and the final disposition thereof. The records in the Central State Registry shall be confidential for all purposes except those purposes set out in the proposed legislation. Such Registry shall provide a recordkeeping capacity which will assist in the evaluation of the programs to prevent child abuse and neglect and in the establishment of future prevention programs. The Registry will provide information to the investigating team of any previous report or complaint concerning a child or family. The physical location of such a registry will be in the Criminal Records Division of the State Police Department.

The Office will design and make available to the local investigating teams and the general public educational materials and programs to inform the public of the problem of child abuse and neglect and to explain how to report suspected cases of child abuse or neglect. In addition, it will design programs to inform professionals of their legal responsibility concerning child abuse or neglect and provide information as to the proper method of dealing with such abuse or neglect.

The Office shall be assisted in its efforts by an advisory committee to be composed of representatives of the State agencies which are counterparts at the State level to the local agencies which have persons assigned from them to each investigatory team.

III. Conclusion

Many witnesses who appeared before the Subcommittee at its public hearings supported the concept of a multi-disciplinary team approach as the best possible approach to dealing with cases of child abuse and neglect. This point of view was totally supported by the information available to the Joint Subcommittee.

Child abuse and neglect presents pressing problems to the Commonwealth which require immediate attention and action. The Joint Subcommittee feels that its' legislative proposals as outlined herein provide the entire Commonwealth with the best possible approach to implementing a new program to deal with child abuse and neglect by using existing resources. The Joint Subcommittee further feels that its program affords each locality with the flexibility to meet its own individual needs while providing a standard approach to the problem of child abuse and neglect throughout the entire Commonwealth.

Each member of the Joint Subcommittee agrees with the basic recommendation that Virginia should have a strong system for reporting cases of suspected child abuse and a practical working method of dealing with the many problems involved in child abuse and neglect. Each member, however, reserves his or her right to voice his or her objections and reservations about any portion of this report and the proposed legislation therein.

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Respectfully submitted,

Robert R. Gwathmey, III, Chairman

John C. Buchanan

John D. Gray

Edward M. Holland

Paul W. Manns

Mary A. Marshall

Donald G. Pendleton

William P. Robinson, Sr.

Eleanor P. Sheppard

Frank M. Slayton

David F. Thornton

A B I L L

To amend the Code of Virginia by adding in Title 2.1 a chapter numbered 7.5, containing sections numbered 2.1-64.32 through 2.1-64.36, and to further amend the Code of Virginia by adding in Chapter 8 of Title 16.1 an article numbered 8, containing sections numbered 16.1-217.5 through 16.1-217.19 and to repeal Article 7 of Chapter 8 of Title 16.1 containing sections numbered 16.1-217.1 through 16.1-217.4, so as to provide for a State Office of Child Abuse Information and Education, its powers and duties; to create a central registry for child abuse or neglect reports or complaints; to create a multi-discipline investigative team in each district in the Commonwealth to investigate reports and complaints of child abuse and neglect; mandatory reporting of child abuse or neglect and penalty for failure to do so; immunity from civil liability; parent-child and physician-patient privilege abrogated; parental consent not necessary for certain action.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 7.5, containing sections numbered 2.1-64.32 through 2.1-64.36, and the Code of Virginia is further amended by adding in Chapter 8 of Title 16.1 an article numbered 8, containing sections numbered 16.1-217.5 through 16.1-217.19, as follows:

Chapter 7.5

State Office of Child Abuse Information and Education

§ 2.1-64.32. There is hereby created the State Office of Child Abuse Information and Education which shall be under the supervision and direction of the Governor and shall be referred to hereinafter as the Office. The Governor shall appoint a Director of the Office who shall hold office at the pleasure of the Governor, and shall be paid such compensation as the Governor may prescribe.

§ 2.1-64.33. The Office, under the supervision and direction of the Governor, is charged with the responsibility of:

(1) Maintaining a Central State Registry of all reports and complaints of child abuse or neglect within the Commonwealth, hereinafter referred to as the Registry;

(2) Evaluating all local and State programs dealing with child abuse or neglect;

(3) Assisting in establishing future child abuse and neglect programs;

(4) Preparing and disseminating educational programs and materials on child abuse and neglect; and

(5) Providing training programs for professionals required by law to report suspected cases of child abuse and neglect in all aspects of the detection and prevention of child abuse and neglect.

§ 2.1-64.34. The Director shall exercise all powers and perform all duties imposed upon him by law. In addition, the Director is charged with the executive and administrative responsibility of the Office.

The Director is authorized to employ such personnel, and to contract for such consulting services, as he may require to carry out the purposes of this chapter. Personnel employed by the Director shall be subject to the provisions of Chapter 10 of Title 2.1 of this Code (§ 2.1-100 et seq.).

§ 2.1-64.35. There is hereby created an advisory committee to be composed of the Executive Director of the Virginia Commission on Youth and Children, the Superintendent of Public Instruction, the Commissioner of the State Department of Health, the Commissioner of the Department of Mental Health and Mental Retardation, and the Director of the Department of Welfare and Institutions. The advisory committee shall meet from time-to-time, as the need arises, to advise the Office in matters concerning programs for the prevention of and care of abused and neglected children.

§ 2.1-64.36. (a) The Registry, provided for in § 2.1-64.33, shall contain the name of the child, the name of the family or other persons responsible for his care, the name of the person making the complaint or report and the result of the investigation for each such complaint or report received concerning child abuse or neglect.

(b) The information contained in the Registry shall not be open to inspection by the public. However, appropriate disclosure may be made of such information to any person providing treatment to the abused child or the person who has abused or neglected such

child, to counsel or the judge in any criminal or civil proceeding against a person resulting from suspected child abuse or neglect and to the team director of a multi-discipline investigative team responsible for investigating a suspected case of child abuse or neglect.

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Article 8

Child Abuse and Neglect

§ 16.1-217.5. Policy.--The General Assembly declares that it is the policy of this Commonwealth to protect the best interests of her children by preventing and protecting them from abuse and neglect. To that end, there shall be provided system to identify children who have been abused or neglected, to assure that protective services will be made available to a child and his siblings as quickly as possible to prevent further abuse or neglect, and to preserve the family life of an abused or neglected child by enhancing his parent's ability to provide good child care.

§ 16.1-217.6. Definitions.--The following terms, when used in this article, shall have the meanings respectively set forth, unless a different meaning is clearly required by the context:

(a) "Child" means any person under eighteen years of age or any person under twenty-one years of age who is mentally handicapped or severely physically handicapped.

(b) "Child abuse or neglect" shall mean the act or acts of a parent, guardian or other person responsible for the care of a child which:

(1) creates or inflicts or allows to be created or inflicted upon such a child a physical injury by other than accidental means, or creates a substantial or continual risk of death, disfigurement, impairment of bodily or emotional functions; or

(2) creates or allows to be created a situation that results in malnutrition; or

(3) creates or allows to be created a situation that results in sexual molestation.

§ 16.1-217.7. Establishment of Multi-discipline Investigative Team.--(a) There is hereby created a multi-discipline investigative team or other similar agency in each district created by § 16.1-69.6 for the purpose of investigating reports of suspected child abuse or neglect, hereinafter referred to as the team.

(b) The team shall consist of:

(1) one social worker from a local public welfare or social services department within the district;

(2) one public health nurse from a local health department within the district;

(3) one law enforcement officer from a local law enforcement agency within the district;

(4) one employee of a local school board within the district who is knowledgeable of the public school programs in the district; and

(5) one employee of the juvenile and domestic relations district court.

(c) Each juvenile and domestic relations district court, or the judge thereof in vacation, shall enter a rule creating the team or designating a similar agency as the team. Such rule shall state whether the team will be under the administration of the court or of the director of a local public welfare or social services department within the district. If such rule states that the team will be under the administration of the court, it shall designate one member of the team as the team director. Such rule

shall direct the head of each local agency providing a member of the team to designate a person to serve as full-time member of the team. Such rule may provide for the designation of additional personnel as the need arises. The court may, from time-to-time, change this rule as the need arises. The court may enter any order needed to carry out the rule.

§ 16.1-217.8. Responsibilities of the team.--The team shall have the following responsibilities:

(1) To receive and investigate, including follow-up investigations, of all reports or complaints of child abuse or neglect within the district; and

(2) To do all things necessary to educate the general public concerning child abuse and neglect including, but not limited to, providing educational programs and disseminating educational materials.

§ 16.1-217.9. Responsibilities of local agencies.--All agencies of the local governing body and all regional offices of the Department of Welfare and Institutions shall, upon request, assist the team in carrying out its responsibilities under this article including providing available services to assist in the prevention of further child abuse and neglect.

§ 16.1-217.10. (a) Any person licensed to practice medicine or any of the healing arts, any hospital resident or intern, any person employed in the nursing profession, any person employed as a social worker, any probation officer, any teacher or other person

employed in a public or private school, kindergarten or nursery school, any person providing full or part-time child care for pay on a regular planned basis, any licensed psychologist, any law enforcement officer, and any member of the team receiving, in his professional or official capacity, information that a child is an abused or neglected child, shall report the matter immediately to the team for the district wherein the child resides or wherein the abuse or neglect is believed to have occurred. If the information is received by a staff member, resident, intern or nurse in the course of professional services in a hospital or similar institution, such person shall immediately notify the person in charge of the institution or department, who shall make such report forthwith. The initial report may be an oral report but all reports shall be reduced to writing on a form prescribed by the State Office of Child Abuse Information and Education. Forms shall be distributed to each team by the Office.

(b) Any person, required to file a report pursuant to subsection (a) of this section, who fails so to do and upon conviction thereof shall be fined not more than one hundred dollars for the first failure and for any second or subsequent failure not more than five hundred dollars.

§ 16.1-217.11. Any person who suspects that a child is an abused or neglected child may make a complaint concerning such child to the team for the district wherein the child resides or the abuse or neglect occurs. Such a complaint may be oral or in writing.

§ 16.1-217.12. Any person making a report pursuant to § 16.1-217.10 or a complaint pursuant to § 16.1-217.11, or who participates in a judicial proceeding resulting therefrom shall be immune from any civil liability in connection therewith, unless it is proven that such person acted with malicious intent beyond a reasonable doubt.

§ 16.1-217.13. (a) Upon receipt of a complaint or report of an abused or neglected child, the team director shall cause an immediate and thorough investigation to be made to ascertain the facts and to evaluate the extent of the abuse or neglect.

(b) Upon completion of the investigation, the team director shall take the following action:

(1) If abuse or neglect is found and immediate removal is not deemed necessary, the team director shall arrange for necessary protective services to be provided to the child and his family. If the parent or other person in charge of the child refuse to accept such services, the team director shall immediately petition the juvenile and domestic relations district court for the protection of the child or children.

(2) If abuse or neglect is found and immediate removal is deemed necessary, the team director shall petition the juvenile and domestic relations district court for the removal of the child.

(c) The team director shall submit a copy of the report of the investigation where an abused or neglected child is found to the Commonwealth's attorney within forty-eight hours of the receipt of

a report or complaint. The team director shall also submit a copy of the report or complaint to the office for its central registry as provided for in § 2.1-64.33 within the period of forty-eight hours.

§ 16.1-217.14. The team director shall arrange for the provision of all necessary protective services to an abused or neglected child and his family. Protective services shall include, but not be limited to, a program of counseling or other social services to parents or other persons responsible for the care of such a child which are designed to help prevent further abuse or neglect, to stabilize family life, and to preserve the family unit by focusing on the unresolved problems of the family.

§ 16.1-217.15. Any physician treating, or the person in charge of a hospital or similar institution in which treatment is given, or a member of the team having custody of a child suspected of being abused or neglected shall have the right to retain the custody of such child for a period of not more than twenty-four hours pending a report to the team provided, however, this period shall be exclusive of holidays, Saturdays and Sundays.

§ 16.1-217.16. In any legal proceeding resulting from the filing of any report or complaint pursuant to this article, the physician-patient and husband-wife privilege shall not apply to exclude the admission of such report or complaint into evidence or testimony thereon.

§ 16.1-217.17. In any legal proceeding resulting from the filing of any complaint or report, photographs and X-rays of an abused or

neglected child may be taken, without the consent of the parent or other person responsible for such child, as a part of the medical evaluation or investigation and such photographs or X-rays may be introduced into evidence in such a proceeding.

§ 16.1-217.18. Any person, required by this article to report a suspected case of child abuse or neglect, shall have the right to talk to a child suspected of having been abused or neglected to a child without the consent or knowledge of such child's parent or guardian. Such conversation may be admitted as evidence in any legal proceeding resulting from the filing of a report or complaint pursuant to this article.

§ 16.1-217.19. The juvenile and domestic relations district court, or the judge thereof in vacation, may, by an order of the court, require that the siblings or parents or guardians of a child, suspected of being abused or neglected, undergo a physical or psychiatric examination in connection with such case of suspected child abuse or neglect.

2. Article 7 of Title 16.1, containing sections numbered 16.1-217.1 through 16.1-217.4, is repealed.

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