

REPORT OF THE

**Division For Children
On Missing Children**

TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA



Senate Document No. 7

COMMONWEALTH OF VIRGINIA
RICHMOND
1985

TABLE OF CONTENTS

SENATE JOINT RESOLUTION NO. 60 (1984)..... 2

EXECUTIVE SUMMARY

 Introduction..... 3

 Findings..... 4

 Recommendations..... 8

DEVELOPMENT OF THE STUDY.....10

TYPES OF MISSING CHILDREN.....11

FEDERAL LEGISLATION AND PROGRAMS.....16

VIRGINIA LAWS AND SERVICES.....19

RESPONSES OF OTHER STATES.....24

AN ANALYSIS OF THE RECOMMENDATIONS OF THE TASK FORCE ON MISSING CHILDREN

 Establishment of a Clearinghouse for Information on Missing Children..26

 Coordination of Prevention and Education Efforts.....27

 Missing Children Week.....28

 Funding and Development of Runaway Crisis Shelters.....28

 Model Policy Statement for Law-Enforcement Agencies.....28

 Training for Law-Enforcement Officers.....29

 Implementation of School "Call-back" Programs.....29

 Identification and Transfer Records of School Pupils.....30

 Criminal History Records of Individuals Who Work with Children.....31

 Video-Taping of Children's Testimony.....32

 Competency of Child Witnesses.....33

 Testimony of Crime Victims at Sentencing Hearings.....33

 Mandatory Prison Sentences for Sexual Offenses Against Children.....34

CONCLUSION.....36

APPENDICES

 I - Membership of the Task Force on Missing Children.....37

 II - Legislative Proposals.....40

 III - Model Policy Statement for Law-Enforcement Agencies.....54

 IV - Penalties for Crimes Against Children.....57

SENATE JOINT RESOLUTION NO. 60

Requesting the Virginia Division for Children to study and review federal legislation and Virginia laws on missing children.

Agreed to by the Senate, February 14, 1984
Agreed to by the House of Delegates, March 6, 1984

WHEREAS, there are approximately 1.5 to 1.8 million missing children in the United States today; and

WHEREAS, the Federal Bureau of Investigation estimates that 50,000 such children are abducted by strangers and approximately 3,000 are murdered annually; and

WHEREAS, a bill has been introduced in the Congress of the United States to amend the Juvenile and Justice Delinquency and Prevention Act to include the Missing Children's Assistance Act; and

WHEREAS, the majority of missing children are never located; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Division for Children study and review federal legislation in conjunction with Virginia laws. This study shall include coordination of federal and state agencies and review of possible preventive measures that may be taken in the Commonwealth.

The Virginia Division for Children shall keep the Senate and House Courts of Justice Committees apprised of its work and shall conclude the study in time to submit its recommendations to the 1985 Session of the General Assembly.

EXECUTIVE SUMMARY

Introduction

The 1984 General Assembly passed Senate Joint Resolution 60 mandating that the Division for Children study the missing children problem. The Division was directed to focus on "federal legislation in conjunction with Virginia laws and to include coordination of federal and state agencies, and review of possible preventive measures that may be taken in the Commonwealth."

In acknowledgement of the scope of the missing children problem, and in keeping with the directive of the legislature, the Division for Children consulted with federal and state agencies and established a Task Force including legislators, federal and state agency representatives, and representatives of selected agencies, services, and programs that could, by the nature of their work, offer a unique perspective on the problem.

Federal and state agencies that were consulted, or represented on the Task Force, included the Federal Bureau of Investigation, the National Center for Missing and Exploited Children, and the following state agencies: Department of Criminal Justice Services; Department of Social Services; Department of Education; Department of Mental Health and Mental Retardation; and the State Police. A listing of the full membership of the Task Force on Missing Children is included in appendix I.

MISSING CHILDREN IN VIRGINIA

	<u>3/31/84</u>	<u>7/24/84</u>	<u>9/14/84</u>
Disabled (physically or mentally)	5	5	6
Endangered (abduction by strangers)	2	4	4
Involuntary (abduction by parents)	4	7	8
Juvenile (runaways)	<u>464</u>	<u>455</u>	<u>478</u>
Totals:	475	471	496
Percentage presumed to be runaways:	97%	96%	96%

Three types of missing children were identified in this study: those abducted by strangers, those abducted by non-custodial parents, and those who run away from home. In Virginia, runaways constitute approximately 96 to 97 percent of the missing children reported to the State Police. Most runaways are adolescents who, generally, do not enjoy the level of public concern which is frequently aroused in response to the problems of younger children. Many are attempting to escape physical, sexual, or emotional abuse. Some become the victims of pedophiles, pornographers, pimps, and pushers. When the murder and molestation of abducted children are added, the total picture of the exploitation of missing children becomes almost overwhelmingly gruesome.

Findings

The missing children problem has moved into prominence nationally and in the states very recently. The first significant federal legislation addressing the problem was passed in 1982, i.e. the Missing Children Act. Although the National Crime Information Center has maintained a computerized file on missing persons, including missing children, since 1975, it was not until the Missing Children Act was enacted that searching parents could have full access to the National Crime Information Center. Enactment of the Act had little impact in Virginia, because the Virginia Crime Information Network was already cooperating effectively with the National Crime Information Center; however, significant increases were noted in the use of the Center by other states.

The most comprehensive federal legislation (The Missing Children's Assistance Act) was passed by Congress on October 11, 1984. A major provision of this Act is to demonstrate support for the existing National Center for

Missing and Exploited Children and to provide grants for additional prevention and recovery programs. The grants will be administered by the Office of Juvenile Justice and Delinquency Prevention of the U.S. Department of Justice. There is no direct entitlement of funding to the states, nor does the Act assign any specific functions to the states.

The Federal Parental Kidnapping Act of 1980 addressed the problem of children being "snatched" by one parent and concealed from the other in custody disputes. The use of the Federal Parent Locator Service (FPLS) was authorized for use in finding these abducting parents. The Federal Parent Locator Service is operated by the U.S. Department of Health and Human Services, which also supports the National Runaway Switchboard to provide counseling and referral services to runaways.

While Virginia has no laws relating exclusively to missing children, sections of the Code address aspects of the problem: abduction by strangers under certain circumstances, abductions by parents, and sexual abuse of children.

Parents of missing children often display considerable lack of understanding of the ability of law-enforcement agencies to assist them. Many mistakenly believe that the FBI is now authorized to investigate all cases of missing children and that local law-enforcement agencies have the necessary resources to conduct extensive search efforts in response to every report of a missing child they receive. Some parents find that their local police or sheriff's department will not even accept a missing child report until 24 to 48 hours have elapsed, and must discover that a comprehensive recovery operation can be initiated only when there is clear evidence that the child is in danger.

Evidence points to the need for uniform reporting procedures for law-enforcement agencies and greater public awareness of the responsibilities of

law-enforcement agencies in handling missing children's cases.

In general, there is wide variation between local law-enforcement agencies in the policies for dealing with, and the priorities assigned to, missing and exploited children. Most law-enforcement officers receive little, if any, training to prepare them for dealing with these children. These factors compound the problems of recovery efforts which require the sharing of information and other resources across jurisdictional boundaries.

Although the Commonwealth requires most children to attend school and regulates the operation of many other child-welfare agencies, there is currently no requirement to investigate the criminal backgrounds of thousands of individuals who have intimate daily contact with children. It is probably safe to assume that most of these persons are concerned about the best interests of the children with whom they work, but it is also possible that convicted child abductors and molesters would find these positions attractive. Additionally, schools are not required to notify a parent if a child does not report to school as scheduled. This could result in the loss of 6 to 8 hours of valuable time in the event that a child is abducted on the way to school.

The study established a strong link between missing and exploited children. Children who are abducted or molested are often further traumatized by the law-enforcement and judicial proceedings which attempt to bring the offender to justice. Several states have enacted statutes which allow for video-taped statements of such child victims to be used in conjunction with court appearances in order to minimize for the child the adverse impact of having to repeatedly relate the details of a horrifying experience. This protection is not currently available to Virginia children, and, in fact, some courts have interpreted case law to allow for the automatic exclusion of the testimony of any child under a certain age. This practice could create situations in which those who prey upon some of the most vulnerable

of crime victims would never be brought to trial.

A major concern identified in the study is the public outrage which has been expressed in some communities over seemingly lenient sentences received by convicted child molesters. Because of the inaccurate negative stereotype of a child molester held by many people, it has been possible for certain offenders who have previously enjoyed positive reputations to divert the attention of the courts from the magnitude of their crimes. The fact that the defendant can make statements and present witnesses on his own behalf during sentencing hearings, but that no opportunity is provided for the victim or victim's family to personally testify as to the impact of the crime, can contribute to the determination of sentences which do not adequately reflect the enormity of the crimes for which they are imposed.

There is currently no statewide coordination of either prevention or recovery efforts on behalf of missing children and their families. This results in fragmented and ineffective communication of information between localities, reducing the potential for the development and implementation of successful programs. The program (Federal Parent Locator Service) which is designed to help parents locate non-custodial spouses who have abducted their children requires the negotiation of a bureaucratic maze and the payment of a substantial fee (\$40.00) in exchange for information which is usually so outdated as to be of little value.

Runaway services in most Virginia communities are available only upon referral from the juvenile courts or social services departments. This means that most runaways must become involved in delinquent behavior or be abused before they are eligible for assistance. A number of law-enforcement officers have expressed both uncertainty over the limits of their responsibility and authority in dealing with runaways and frustration over being asked to search for certain youth repeatedly. In only a few jurisdictions have law-

enforcement and social services agencies established cooperative relationships which include appropriate referrals for effective intervention.

Recommendations

The Division for Children recommends that:

1. legislation be introduced in the 1985 General Assembly Session to establish a Missing Children Information Clearinghouse within the Department of State Police (see appendix II, A).
2. statewide coordination of prevention and education efforts concerning missing children be established. This responsibility should be assigned to the Division for Children only if additional resources are allocated to provide the necessary staffing for this activity.
3. the General Assembly request the Governor to proclaim a "Missing Children Week" in Virginia.
4. the General Assembly authorize further study of the problems and needs of runaway and homeless youth in Virginia.
5. A. the Virginia Association of Chiefs of Police and the Virginia State Sheriffs' Association be requested to endorse a model policy statement relating to procedures for handling missing child reports and other juvenile matters for adoption by their members (see appendix III).
B. legislation be introduced in the 1985 General Assembly Session which would prohibit any law-enforcement agency in the Commonwealth from establishing or maintaining a waiting period before accepting a report of a missing child (see appendix II, A).
6. the Department of Criminal Justice Services revise the mandatory basic training curriculum for law-enforcement officers to provide more training in dealing with children who have been sexually abused and in investigating missing child cases.
7. legislation be introduced in the 1985 General Assembly Session to require schools to notify parents when there is no explanation for a pupil's failure to report to school as scheduled (see appendix II, B).
8. legislation be introduced in the 1985 General Assembly Session to require school divisions to report cases in which there is no satisfactory explanation for inability to document a child's age or status in school to the Missing Children Information Clearinghouse for investigation as possibly involving a missing child (see appendix II,C).

9. A. legislation be introduced in the 1985 General Assembly Session to require criminal records checks for school employees and for applicants for child-welfare agency licenses and their employees (see appendix II, D and E).
B. existing provisions for other child-serving organizations to request such records checks be more actively publicized.
10. legislation be introduced in the 1985 General Assembly Session to allow for video-taping of the pre-trial statements of child victims of abduction and sexual abuse (see appendix II, F).
11. legislation be introduced in the 1985 General Assembly Session to prohibit the exclusion of testimony of child victims of abduction and sexual abuse solely by reason of age (see appendix II, F).
12. legislation be introduced in the 1985 General Assembly Session to allow for the testimony of crime victims or their parents at sentencing hearings (see appendix II, G).
13. A. the issues of sentencing and treatment of child molesters be given further study before any changes to existing laws related to those areas are introduced.
B. the Parole Board emphasize the importance of careful monitoring of any activities which might place parolees who have been convicted of crimes against children into contact with children.

DEVELOPMENT OF THE STUDY

Funding for the Division for Children's study of missing children in response to Senate Joint Resolution No. 60 of the 1984 General Assembly Session was provided by a grant from the Virginia Criminal Justice Services Board. At the suggestion of the Department of Criminal Justice Services, the Division for Children established a Task Force on Missing Children (see appendix I) to advise the Division regarding recommendations for legislative initiatives, revisions in policies of state agencies which provide services to missing children and their families, and prevention and education programs designed to reduce the incidence of missing children and enhance public awareness of the problems of, and services available to, searching parents. The Task Force consisted of representatives of state and local government, law-enforcement, education, social services and mental health agencies, the news media, and the religious community.

A variety of approaches was utilized to obtain the information requested by the Resolution. The Division for Children wrote to the attorney general of each state to request information on initiatives taken by his state to address the problems of missing children and received responses from twenty-five states and the District of Columbia. Thirty-three localities in Virginia responded to requests for information on local efforts which were addressed to all city and town mayors and the chairs of all county boards of supervisors. Current and pending federal legislation and programs, as well as the Code of Virginia, were researched, and information was collected from more than forty organizations across Virginia and the nation which provide services to missing children and their families.

Additionally, the Division for Children was represented at the Second Annual Kentucky Conference on Missing and Exploited Children. Interviews were

conducted with the following: staff of the Louisville/Jefferson County, Kentucky, Exploited and Missing Children Unit; the Chief Technical Advisor and the Deputy Director of the National Center for Missing and Exploited Children; staff of the Bureau of Child Welfare Services of the Virginia Department of Social Services; the Records and Statistics Officer of the Virginia Department of State Police; the Special Agent in Charge of the Richmond Division of the Federal Bureau of Investigation; numerous local law-enforcement officers; staff of local departments of social services; and individuals involved in several volunteer organizations which provide preventive education and recovery assistance at the community level.

The Task Force on Missing Children held working meetings on August 1, September 5, and October 3, 1984. To facilitate the work of the Task Force, the members were divided into three work groups - addressing legislation, policy and procedures, and prevention and education. Each met separately. Public hearings were held in Richmond on September 5 and in Norfolk on September 19, 1984. The Task Force presented the Division for Children with a total of thirteen recommendations, most of which were based upon initiatives advocated by the National Center for Missing and Exploited Children. The Division analyzed each recommendation in conjunction with the other information collected, and developed the positions presented in this report.

TYPES OF MISSING CHILDREN

The data received by the Division for Children identified three types of missing children: those abducted by strangers, those abducted by non-custodial parents, and those who have run away from home. It has been impossible to consider the issue of missing children without examining both the antecedents and the consequences of a disappearance. Consistently, this examination has revealed a strong link between missing and exploited children.

The literature suggests that, in some cases, a stranger who abducts a child may be attempting to compensate for the loss of, or inability to conceive, a child of his or her own. Although the intention may be to provide a good home for the child, the mental and emotional instability of an individual who would select this alternative for resolving a problem suggests severe difficulty in understanding and meeting the developmental needs of a child. In many more cases, the abduction of a child by a stranger leads more directly to exploitation through sexual molestation, physical, mental, and emotional abuse, and even the death of the child.

The literature also indicates that non-custodial parents who abduct their children rarely do so out of a genuine concern for the well-being of the child. Usually, these abductions are motivated by vindictiveness against the other spouse; thus, the child becomes exploited as a pawn in a conflict between two adults, at least one of whom obviously has limited ability to identify and utilize mature and responsible solutions to problems. The trauma of conflicting loyalties to estranged parents is damaging enough to any child without being seized by one and denied all access to the other.

The level of public sympathy and support which has been expressed for the families victimized by both types of abductions indicates a clear awareness of the exploitive nature of these events. However, there appears to be less understanding of the extent to which runaways are exploited. Many people seem to view all runaways as "bad" or "sick" children who are rebelling irresponsibly against the proper authority of their parents and are both free and welcome to return to a caring and providing family whenever they wish. In reality, children run away from home for any number of reasons, but usually as an indication of a family problem, difficulty in school, or peer pressure that can only be successfully addressed within the context of the whole family. In some cases, the runaway may even be the healthiest person in the

family, because his or her behavior helps bring an end to the denial of the crisis.

Runaways are just as likely to be girls as boys. They come from all racial and ethnic groups in proportions which mirror their representation in the general population. Similarly, they run from families which are rich, poor, or middle-class. Approximately 80 percent are 14, 15, or 16 years old. Those who are younger tend not to run away as frequently nor as far. Those who are older are often unlikely to return.

The decision to run away involves many complex factors. The most common reasons appear to be family conflict and low self-esteem based upon negative labeling within the school, community and home. However, the attempt to place every runaway in a category explaining why he or she runs away is a rather simplistic approach to a complicated issue.

What we do know is that certain general types of runaways seem to share specific reasons for running. A brief summary of these types may help to further explain the problems of runaways and suggest distinctions which are important in the planning of services for them.

Short-term runaways are those who are away from home for no more than a week. They experience some degree of conflict with parents and siblings, and are usually not doing well in school. Some may think of themselves as failures who have caused the problem leading to the runaway episode.

The younger runaways within this group, generally around 13 years old, are often seeking a temporary escape from neglect, emotional and physical abuse, or actual or perceived parental rejection. Unfortunately, these adolescent abuse victims do not seem to receive the level of public support and concern given to very young children. Although their homes are commonly wracked by marital conflict, these youth are likely to have strong psychological ties to their families and usually return voluntarily within three days of running away.

The older short-term runaways, with an average age of 16, have lost most of the ties they once felt and are largely independent of their families. They come and go as they please, and their parents are usually not sure exactly where they are or what they are doing. Trouble at school or in the community is more likely to lead to the pressure to run for these youth, who generally find friends to run with them. They often stay away for at least a week and are prone to run away repeatedly.

Long-term runaways are away from home for several weeks or longer, while many stay away permanently. These youth can be divided into four groups: middle-class loners; rejected, constrained youth; homeless youth; and independent youth.

Those who tend to have few friends and run away alone are generally from a middle-class background. Many of these youth are not seeking to escape family problems, but think of running away as a chance for exploration outside their normal experience. They usually return voluntarily.

Girls around the age of 15 (rejected/constrained group) have frequently experienced an extreme level of supervision and control by their parents. The girls are angry, sometimes hostile, and tend to have conflicts with authority figures. Many of the boys 15 or older have received little attention, or mostly negative attention, from their parents.

Homeless youth are runaways in the eyes of our legal system, but, in reality, they no longer have a functioning parent or guardian who assumes the responsibility of providing for them. This can occur through death or severe alcohol or other drug addiction of the parents, through homelessness of the entire family which results in the teenager being asked to fend for himself/herself, or through emotional alienation that leads to the youth being thrown out of the home, usually in anger.

While accurate statistics on any runaway group are hard to come by,

the number of homeless youth is obviously the most difficult to obtain since most of them are never reported missing. However, they are missing from the type of environment necessary to their development into mature responsible adults. These youth often are completely without the institutional resources which would provide them a place in which to grow up - until they commit a crime. Delinquents have a wealth of services available to them as compared to those youth who are homeless through no fault of their own. It should come as no surprise, then, that without effective intervention, many of them will soon enter the juvenile or criminal justice system for committing crimes in order to stay alive on the streets.

The last group of long-term runaways, independent youth, exhibit a well-developed ability to survive on the streets. Many of them have come out of one or more of the other groups, and have carefully planned a runaway episode to a selected destination. If forced to return home, they usually leave again soon.

Whatever their problems may have been at home, at school, or in the community, runaway and homeless youth on the streets are an extremely high-risk population. They are at risk of becoming severely emotionally disturbed, at risk of being exploited, and at risk of learning to successfully exploit others. Some become involved in child pornography and prostitution, some are used by drug dealers who consider them less likely to arouse police suspicion, and some are molested by pedophiles who often find it relatively easy to gain their trust by offering emotional and financial support.

Runaways constitute by far the largest category of missing children, and most of the runaways are teenagers. Because these children are viewed as having voluntarily chosen their situations, and because they are older, they often do not receive the same degree of attention as that devoted to the problems of younger children. They are expected to be able to cope more

responsibly with their problems. This stance largely ignores the difficulty many of these young people experience in dealing with the conflicts inherent in their adolescent development and helps to explain the lack of adequate resources to address their needs. Failure to provide the services required by these children and their families results in financial, social, and emotional costs for society at large. As long as our laws and customs dictate that a child is entitled to proper care, supervision, and protection until he or she reaches the legal age of majority, it is important to consider all children who are missing these necessary elements for their development, for whatever reasons, as missing children.

FEDERAL LEGISLATION AND PROGRAMS

The National Crime Information Center (NCIC) computer system was created in 1967 to centralize all criminal history records and descriptions of wanted persons and stolen property. In 1975, a separate file was established for missing persons, to include missing children. The use of this file to collect and preserve information concerning missing children was significantly increased when the Missing Children Act was signed into law as P.L. 97-292 on October 12, 1982.

The Missing Children Act allows searching parents to obtain confirmation that their children have been entered into NCIC. It also allows the FBI to accept information on missing children directly from parents in cases where local or state law-enforcement agencies fail to provide the information to NCIC. These provisions encompass all children, including runaways and victims of parental kidnapping, without imposing restrictions on how long the child must be missing before he or she can be entered into the computer.

Since passage of the Act, the NCIC system has been re-programmed to receive inquiries which use only physical descriptions, i.e., approximate age,

sex, race, height, weight, eye and hair color, if the name and/or date of birth of a child are unknown. In March, 1983, the FBI also began accepting fingerprint cards into its files. These cards are searched against the cards already on file, and if no match is achieved, are retained for comparison with later entries.

Since the passage of the Act, some misunderstanding of the FBI's responsibility in missing children cases has occurred. The FBI is not authorized to investigate every missing child case in America. The FBI can conduct full-scale investigations of most stranger abductions and can also investigate parental abductions for which: a felony warrant has been issued; there is evidence of interstate flight; state authorities have requested FBI assistance and have indicated their intention to extradite and prosecute; and an unlawful flight warrant has been issued by the appropriate U.S. Attorney.

The federal Parental Kidnapping Prevention Act of 1980 was enacted partially in response to the "tendency of parties involved in (custody) disputes to frequently resort to the seizure, restraint, concealment, and interstate transportation of children, the disregard of court orders by the courts of various jurisdictions, and interstate travel and communication." This Act incorporates the basic provisions of the Uniform Child Custody Jurisdiction Act, which the Virginia General Assembly enacted in 1979 (see Title 20, Chapter 7, Sections 20-125 et seq.), into P.L. 96-611.

The Act also provides for the use of the Federal Parent Locator Service to assist in the location of a non-custodial parent who has abducted a child. Through an agreement between the Division of Support Enforcement Programs of the Virginia Department of Social Services and the Office of Child Support Enforcement of the U.S. Department of Health and Human Services, information which might reveal the whereabouts of an abducting parent may be obtained from federal tax, military and Social Security records. However, a parent

wishing to utilize this service must ask a Commonwealth's attorney, federal court, or clerk of a local court to petition the Division of Support Enforcement Programs of the State Department of Social Services to request the files from the federal government. In addition to this somewhat cumbersome process, a \$40.00 fee may prevent some searching parents from taking advantage of the service. In cases with which the FBI is involved, parents may obtain information from federal agents and U.S. attorneys, who have direct access to the Federal Parent Locator Service. The information received is often outdated by 8 to 18 months.

The U.S. Department of Health and Human Services also supports the National Runaway Switchboard. The switchboard provides free, confidential counseling and referral services on a 24-hour basis and allows runaways to make long distance calls home at no charge.

On October 11, 1984, the 98th Congress approved the Missing Children's Assistance Act. This Act provides grants and contracting authority for federal programs to: (1) operate a national toll free telephone line for reports of information regarding the location of missing children; (2) establish and maintain a national resource center and clearinghouse to: (a) provide technical assistance to local and state governments, public and private non-profit agencies and individuals in locating and recovering missing children, (b) coordinate public and private efforts to locate and recover missing children, and (c) nationally disseminate information on innovative missing children's programs, services and legislation; and (3) periodically conduct national incidence studies to determine the actual number of children reported missing each year, the number of children who are the victims of parental kidnappings, and the number of missing children who are recovered each year.

Many of these functions are already being performed by the National Center on Missing and Exploited Children, a private, non-profit organization funded by a \$3.3 million grant from the Office of Juvenile Justice and

Delinquency Prevention of the U.S. Department of Justice. Passage of the Act demonstrates stronger Congressional support and a sense of greater permanence for the Center.

Additional programs around the country will be funded under the provisions of this Act through grants administered by the Office of Juvenile Justice and Delinquency Prevention in the U.S. Department of Justice. Grant application procedures are expected to be announced in the Federal Register during January 1985. There is no direct entitlement of funding to the states, nor does the Act assign any specific functions to the states. This makes the ability of Virginia to coordinate with, and be knowledgeable of, the initiatives of the federal program of particular importance.

Another indication of the federal government's concern is Senate Concurrent Resolution 120 of the 98th Congress, expressing "the sense of the Congress that the legislatures of the States should develop and enact legislation designed to provide child victims of sexual assault with protection and assistance during administrative and judicial proceedings." The resolution contains several proposals for innovative approaches by the states to handle child sexual abuse cases, including:

- establishing procedures for the video-taping of victims' statements and testimony;
- establishing procedures to check the criminal records of adults working or volunteering to work with young children in supervisory positions; and
- establishing procedures to permit child victims of sexual abuse to testify without prior qualification of competency.

VIRGINIA LAWS AND SERVICES

While federal legislation has focused on services to missing children and their families, the Virginia laws which directly relate to missing children consist primarily of the penalties prescribed in Title 18.2 of the Code for

various offenses. These statutes make abduction a class 5 felony except when committed by the parent of the person abducted. Parental abductions are considered Class 1 misdemeanors if punishable as contempt of court and become Class 6 felonies if the abducted child is removed from the Commonwealth. Murder in the commission of an abduction is a Class 2 felony and becomes a Class 1 felony if a ransom is demanded. Abduction with the intent to defile and abduction of any female under 16 years of age for the purposes of concubinage or prostitution are also Class 2 felonies. Taking indecent liberties with a child is a Class 6 felony, and causing or encouraging acts rendering a child delinquent, in need of services, abused, or neglected are Class 1 misdemeanors. A summary of penalties for offenses against children is contained in appendix IV.

Virginia law also provides for the Virginia Crime Information Network (VCIN), operated by the Department of State Police as a link between local law-enforcement agencies in Virginia and the National Crime Information Center (NCIC). Table I displays the numbers of unsolved missing child reports maintained by VCIN on March 31, 1984, July 24, 1984, and September 19, 1984. The totals are divided according to categories established by NCIC. "Disabled" cases involve children with mental or physical disabilities; "endangered" cases include hostages and other children believed to be in dangerous circumstances; and "involuntary" cases are those in which a child is taken without proper authority or against the child's will, but in which there is no evidence of imminent danger to the child.

"Juvenile" reports include all persons under the age of eighteen years whose cases do not fit the description of any of the other categories. Most, if not all, of these "juveniles" can be presumed to be runaways. As the table illustrates, the vast majority of missing children in Virginia are runaways. These statistics are consistent with the figures reported for other states

across the country.

TABLE I

MISSING CHILDREN IN VIRGINIA

	<u>March 31, 1984</u>	<u>July 24, 1984</u>	<u>September 19, 1984</u>
Disabled	5	5	6
Endangered	2	4	4
Involuntary	4	7	8
Juvenile	<u>464</u>	<u>455</u>	<u>478</u>
Totals:	475	471	496
Percentage presumed to be runaways	97%	96%	96%

Typically, a child is first reported missing to the local law-enforcement agency. The Records and Statistics Officer of the Department of State Police surveyed 130 law-enforcement agencies which use the Virginia Crime Information Network to determine how quickly they accept missing person reports and enter them into the computer files. Of 123 respondents, 58 (47.2%) reported no waiting period and immediate entry into the computer. Another 53 agencies (43.1%) replied that the speed of their response would depend upon the circumstances surrounding the missing person report. Ten agencies (8.1%) reported a 24-hour waiting period, and two (1.6%) stated that they wait 48 hours before accepting any report of a missing person.

Several law-enforcement officers contacted during the course of this study expressed considerable frustration with their position relative to runaways and their families. Some stated that parents expect them to find runaway children and return them to their homes, but that revisions in the juvenile code relating to status offenses have taken that responsibility away from the police and given it to social service agencies. However, most social services personnel who were interviewed reported that their agencies offer few or no programs specifically targeted to runaways unless they are reported to have been abused or neglected.

The Division for Children wrote to all city and town mayors and the chairs of all county boards of supervisors in Virginia to request information on local programs for the prevention and recovery of missing children. Most of the 33 responses received indicated that the law-enforcement agencies are taking the lead in operating these programs at the community level. In some areas, the schools, social services departments, and other community agencies and organizations are involved, but almost always in conjunction with the police or sheriffs' departments. More than three-fourths (92) of the law enforcement agencies responding to a recent survey by the Department of Criminal Justice Services (DCJS) reported that they have conducted and promoted child fingerprinting programs in their localities. More than 130,000 children were fingerprinted by these agencies between the beginning of 1983 and the middle of 1984.

In addition, more than three-fourths of the responding agencies (DCJS survey) are actively providing prevention programs through the schools. Puppet shows, talking robots, "McGruff" costumes, "Officer Friendly," films, such as "Stranger Danger", coloring books, and Washington Redskin Football/crime prevention cards are used to promote self protection, crime prevention, and appropriate decision making. The Department of Criminal Justice Services has provided law-enforcement agencies in the state with more than 250 "Youth Crime Prevention" kits which include information sheets, brochures, posters, coloring books, and camera-ready art.

Twenty law-enforcement agencies reported that they are helping to develop and promote block parent programs within their local communities. These programs, operated similarly to the Neighborhood Watch programs, designate a "McGruff Safe House" within a neighborhood to provide a clearly identified home where a child may come if he or she experiences a threatening or emergency situation.

The Division for Children has been able to identify only five service programs in Virginia (located in Alexandria, Charlottesville, McLean, Richmond and Roanoke) which consider runaways their primary target population and regularly accept youth who refer themselves for services. One of these shelters with a capacity for four clients, received 12 referrals during one weekend in November. There are also facilities in Fredericksburg, Lynchburg, and South Boston which will accept self-referred runaways under certain conditions, if space is available.

The remaining crisis intervention centers and other facilities which provide services to runaways do so only upon referrals from other agencies, usually the juvenile courts and social services departments. This means that unless a runaway becomes involved in delinquent activity or becomes the victim of abuse or exploitation, he or she may find it difficult to obtain services in most areas of the Commonwealth. Of particular concern to the Division is the fact that although 25 to 40 percent of Virginia's runaways come from the Tidewater region, no agency in that area currently accepts self referrals, and a new facility which plans to begin operations in late December or early January will offer this service to female clients only.

The emergency foster care home networks, which have been established in several areas of the state, also help to address the need for services to runaways. However, there appears to be a need for more sharing of information between communities at this time. Programs in Virginia vary widely in their definitions of the population they serve and of the needs of that population. This results in gaps in the kinds of services which are provided. Policies which arbitrarily limit the amount of time that services are available can result in a young person being shuffled through several programs before a satisfactory solution can be developed. These problems point to the need for the inclusion of a strong focus on runaways as a part of a comprehensive coordination effort on behalf of all missing children at the state level.

During the two public hearings conducted by the Task Force on Missing Children, testimony was received from individuals representing several organizations which are attempting to address various aspects of the problems of missing and exploited children. These organizations included: Child Watch, Inc; Colonial Coast Girl Scout Council; For Young People Only, Inc; Friends of Child Find, Norfolk Chapter; Parents of Murdered Children, Chesapeake Chapter; Society's League Against Molesters, Virginia Beach Chapter; and Virginians Aligned Against Sexual Assault. Additional contacts with the leaders of these organizations by the Division for Children indicate that they would benefit significantly from technical assistance in the areas of organizational development, program planning, identifying and securing resources, and establishing communication networks with similar organizations across the Commonwealth. This need again points to the value of establishing a position for a full-time state level coordinator for missing children's programs in Virginia. The location of this position in an agency which has expertise and experience in assisting other organizations in securing available federal resources would promote maximum use of funds available under the federal Missing Children's Assistance Act in Virginia.

RESPONSES OF OTHER STATES

Information received from other states indicates that they have responded to the problems of missing and exploited children in a variety of ways. Many states appear to be in a very similar situation to Virginia's in terms of examining the issues and developing strategies for intervention. Some have already conducted extensive studies and are now implementing comprehensive approaches.

Florida was the first state to establish a clearinghouse for information on missing children by appropriation of the 1982 legislature. Governor

Graham of Florida wrote to each of the other governors in May, 1984, describing the success of the clearinghouse and urging them to consider the initiation of similar programs for their states.

The most in-depth state report on these issues to date was compiled by the Kentucky Task Force on Exploited and Missing Children. The recommendations of this Task Force led to the creation of the Kentucky Missing Child Information Center in July, 1984. The 1984 Kentucky General Assembly also approved legislation which provides for criminal records checks on individuals who work with children and video-taped testimony of child victims of certain crimes.

Reports on initiatives taken in Illinois, Massachusetts, Michigan, New Jersey, New York, North Carolina, and Ohio all emphasize the importance of more uniform procedures and better coordination of law-enforcement and social services agencies' response to missing children and their families.

AN ANALYSIS OF THE RECOMMENDATIONS OF THE
TASK FORCE ON MISSING CHILDREN

The Task Force on Missing Children developed proposals for the Division for Children in thirteen areas. This section of the report presents an analysis of each of those proposals and explains the position of the Division as indicated in the opening section of this report. Because of the inter-relationship between missing and exploited children noted previously, some of these recommendations are consistent with measures which have been proposed for improving the protection of abused children. It is, therefore, important to recognize not only that many missing children are abused children, but also that some of the same initiatives will effectively address the problems of both.

Establishment Of a Clearinghouse For Information on Missing Children

Any recovery of a missing child must necessarily occur within a specific locality. Local law-enforcement agencies are most frequently expected to assume responsibility for such recoveries. However, missing children of all types often travel through numerous jurisdictions. Differing policies and procedures for handling missing child reports within various jurisdictions result in a lack of coordinated effort. It is often difficult even to communicate basic information vital to the success of the investigation from one law-enforcement agency to another.

These problems indicate the need for a central repository of information regarding missing children in Virginia. Two states, Florida and Kentucky, have already established Missing Children Information Clearinghouses to address this need. These Clearinghouses operate statewide toll-free telephone lines to receive reports of the disappearance or sighting of a missing child. They circulate monthly bulletins on missing children and provide emergency

flyers containing physical and situational descriptions of missing children. They provide training regarding the operation of their clearinghouses and provide assistance to law-enforcement agencies in planning and implementing programs to fingerprint children.

The establishment of a Virginia Missing Children Information Clearinghouse would significantly increase the speed and effectiveness of recovery efforts within the Commonwealth. The Records and Statistics Officer of the Department of State Police believes that these functions could be assumed through an expansion of the existing Virginia Crime Information Network without requiring additional personnel. He estimates that necessary modifications to the VCIN data base would require a one-time expenditure of \$6,000 to \$8,000 and the publication and distribution of a missing children bulletin would cost \$6,000 annually. The major expense would be the toll-free telephone line, the exact cost of which would be determined by the level of usage. The Department of Social Services has advised the Division for Children that the current annual cost of the child abuse hotline is approximately \$46,000 for the telephone system alone.

Coordination of Prevention and Education Efforts

As has been presented previously in the discussion of current programs at both the federal and state levels, prevention and education efforts would benefit greatly from statewide coordination. This coordination should include administration of a major public awareness campaign and creation of a study group to investigate designated law-enforcement agency records on missing child cases in order to identify strategies for preventing frequently occurring situations which lead to missing children. It should also involve a continuing liaison between prevention and recovery efforts at the federal, state, and local levels.

The Task Force recommended that these responsibilities be assumed by the

Division for Children inasmuch as they are consistent with the Division's existing legislative mandate. However, budget reductions experienced by the Division following the 1984 General Assembly Session would necessitate the allocation of additional resources to the Division if these functions are to be performed.

Missing Children Week

The President of the United States, as authorized and requested by Congress designated a day during the period of Mother's Day, May 13, 1984, through Father's Day, June 17, 1984, as "Missing Children Day." It is expected that similar proclamations will be issued in 1985. In order to emphasize the significance of these occasions in the Commonwealth, the General Assembly should be asked to request that the Governor proclaim May 19 through 25, 1985, as "Missing Children Week" in Virginia.

Funding and Development of Runaway Crisis Shelters

This study clearly identified runaways as the largest group of missing children in Virginia. The Division for Children directed considerable effort toward developing a greater understanding of the problems of runaways. However, the time and resource limitations of the study did not allow for a full examination of the need for additional runaway crisis shelters in Virginia, nor for the development of specific program proposals to meet this need. It is therefore recommended that the General Assembly authorize further study of the problems and needs of runaway and homeless youth in Virginia. This study should focus on an examination of problems that precipitate runaway episodes, problems of service delivery to runaways, and innovative service program proposals.

Model Policy Statement for Law Enforcement Agencies

The Task Force on Missing Children recommended that the Virginia Association of Chiefs of Police and the Virginia State Sheriffs' Association endorse a

model policy statement for adoption by their members (see appendix IV). This policy statement would help to develop more uniform procedures for handling missing child reports and other juvenile matters, and would demonstrate the concern of the law-enforcement community for these children and their families.

Of particular importance is the elimination of any arbitrary waiting periods which are observed before the acceptance of a missing child report. As indicated in previous discussion of Virginia laws and services, a relatively small number of Virginia law-enforcement agencies currently require such waiting periods. The Division for Children considers this issue to be important enough to be included in the legislation establishing a Missing Children Information Clearinghouse.

Training For Law-Enforcement Officers

The current basic training curriculum for law-enforcement officers includes only four hours in juvenile matters, and most of this time is reported to be devoted to a review of juvenile court procedures. Most of the law-enforcement officers interviewed during this study reported that they had received little if any formal training in actually dealing with children in police investigations. Those who have developed expertise in this area generally indicated that they had obtained it through their own interest and initiative. The Task Force concluded that the Department of Criminal Justice Services should promote additional training of law-enforcement officers in juvenile matters with specific training objectives related to dealing with children who have been sexually exploited and investigating missing child cases.

Implementation of School "Call-back" Programs

When a child is abducted, runs away, or becomes lost, any delay in the initiation of a recovery effort can result in decreased likelihood for a

positive outcome. If a child becomes missing on the way to school, and the child's parent is not made aware of the disappearance until six or eight hours later, much valuable time has been unnecessarily lost. Because the Commonwealth requires that children be sent to school, it must assume responsibility for what happens to children at school and should also be concerned about what happens, or may happen, to a child traveling to or from school.

The Task Force on Missing Children recommended that the State Board of Education encourage all local school divisions to implement a "call-back" program to contact a parent or legal guardian when there is no explanation for a child's failure to report to school as scheduled. The Task Force further recommended that the Virginia Congress of Parents and Teachers be asked to encourage its members to support such programs by organizing volunteers to staff them, if needed, and that the Board of Education be requested to report to the 1986 General Assembly on the steps taken to establish such programs and the responses of the local school divisions. This proposal could be strengthened, and the commitment of the General Assembly could be emphasized, by enacting a statutory requirement for schools to provide this service. As an additional benefit, the Division for Children has learned that some school divisions in other states which have adopted such procedures have experienced reductions in their absentee rates of more than ninety percent.

Identification and Transfer Records of School Pupils

In cases where a pre-school age child is abducted by a non-custodial parent, or by a stranger who attempts to rear the child as his or her own, the child is likely to be enrolled in school at the proper age. When such cases involve school age children, they will probably be enrolled in a new school as transfer students. Abductors may be able to circumvent school requirements for official documentation of the child's age or status in school.

While there may occasionally be legitimate reasons for a parent's in-

ability to provide such documentation, failure to furnish a satisfactory explanation should arouse suspicion among school officials. The Task Force recommended legislation which would require that suspicious cases in which proper identification of students and previous school records of transfer students are not obtained be reported to the Missing Children Information Clearinghouse for investigation as possible missing child cases.

Criminal History Records of Individuals Who Work With Children

Parents throughout Virginia entrust the safety and well-being of their children to individuals working in a variety of youth-serving agencies. Most parents tend to assume that these individuals possess a genuine concern for the best interests of the children they serve, and in the vast majority of situations, this assumption is entirely warranted. However, individuals who wish to exploit children are also likely to be drawn to activities which place them in contact with children.

Although it is difficult to conceive of any feasible way to completely prevent every person who might harm a child from having access to children, it is possible to avoid the unknowing placement of a person convicted of an offense against a child in a position which allows, or even requires, frequent personal contact with children when such conviction is a matter of record. Section 19.2-389 of the Code of Virginia allows for an individual to authorize the Central Criminal Records Exchange to release a copy of his or her criminal history record information, or a certification that no conviction data is maintained, to a third party. Child-serving agencies and organizations could use this provision of law to require any person applying for employment or a volunteer position which involves regular contact with children to authorize release of this information. Some organizations are, in fact, using this statute already, but many more seem to be unaware that it is available to them.

The Task Force on Missing Children concluded that there is a need for greater public awareness of this law. However, they also recognized the special responsibility of the Commonwealth to investigate the backgrounds of employees in the public schools, attended by most children in Virginia in fulfillment of the compulsory attendance law, and of employees in child welfare agencies which are licensed by the Commonwealth.

Requiring these checks by law would permit inquiries into the national criminal history files as well. Not all states have joined Virginia in participating in the national system. Some of the other states which participate have restrictions which would prohibit the release of their records for this purpose. In addition, these checks would obviously be of no value when conducted on a child molester who has never been convicted. These limitations need to be recognized in order to prevent a false sense of security, but it seems imprudent to fail to use this method for improving the security of children in Virginia to the extent possible.

Video-taping of Children's Testimony

The experience of having to relate the details of a horrifying event can be as frightening as the event itself. When a child is asked to do so repeatedly, and finally in front of the one who created the terror a courtroom full of strangers, the trauma is often overwhelming. The desire to reduce this additional victimization of abducted and molested children has led to the adoption in several states of provisions for the video taping of pre-trial statements of such children. This approach has been endorsed by the U.S. Attorney General's Task Force on Family Violence.

Any proposal for the use of a statement recorded outside of a regular court proceeding should include safeguards against any intrusion upon the constitutional rights of the accused. These precautions could include

provisions to ensure that: the statement is not made in response to leading questions; everyone who participates in the recording of the statement, including the child, is identified and available to corroborate, or be questioned about, the statement; and the recording is produced accurately and has not been altered. The Task Force on Missing Children recommended the amendment of Virginia law to allow for the use of video-taping in certain cases under conditions which would not impinge upon the rights of the defendant.

Competency of Child Witnesses

During the course of this study, it was learned that a number of Virginia courts have interpreted case law to assume that all children under the age of six or seven years are incompetent as witnesses. In those cases in which the child is the only witness to the alleged offense, the testimony of the child may be crucial to the prosecution. The Task Force recommended that Virginia law be changed to prohibit the exclusion of testimony of child victims of crime solely by reason of age.

This recommendation should not be interpreted as advocating the use of the child's testimony as the sole basis for conviction of an offender. However, when it is necessary to use the child's testimony in conjunction with other evidence, it is not in the best interests of justice to provide no opportunity for that testimony to be introduced. It is also important to remember the traumatizing impact of a court appearance for many children. For this reason, the proposal to remove the exclusion of child witnesses should be linked with the protective measure of video-taping as analyzed above.

Testimony of Crime Victims at Sentencing Hearings

As indicated in the analysis of mandatory sentences below, public concern has been expressed over some sentences received by child molesters. These

disputes have generally followed cases in which a plea bargain, the testimony of character witnesses, and the defendant's own expression of contrition have combined to produce a suspended prison sentence and mandatory community service.

Much of the objection to such outcomes is based upon a perceived lack of consideration of the impact of the offense upon the victim and his or her family. Although current Virginia law provides for a victim impact statement in these cases, it can be argued that such statements would not have the same effect as a personal appearance by those who have been victimized by the crime. The Task Force recommended that Virginia law be changed to allow for testimony of a victim or victim's family during sentencing hearings.

Mandatory Prison Sentences for Sexual Offenses Against Children

Public outrage over the abduction and exploitation of children has produced significant questions about the scope and structure of criminal penalties as means for effective crime control. Of particular concern to many have been the seemingly lenient sentences received by certain child molesters. Suspended imprisonment and mandated community service have often been viewed as inadequate responses to the sexual abuse of a child. The Task Force recommended that Virginia law be amended to impose mandatory prison sentences for at least the second conviction of a sexual offense against a child. The Division for Children's review of research conducted by the National Institute of Justice indicated that the effectiveness of mandatory sentences is open to serious question. In states which have enacted mandatory sentencing laws, the significant increase in the penalties at stake in trial has resulted in intensified efforts on the part of defendants to avoid these penalties and increased delays in reaching a final verdict. Even more importantly, the studies have not substantiated convincingly the popular claim that mandatory sentencing is an

effective tool for reducing crime.

In fact, the knowledge that conviction for a sexual offense against a child will lead to automatic imprisonment may serve to further inhibit many people's willingness to report awareness or suspicion of such crimes. Judicial decisions may become more favorable to defendants, particularly among judges and juries who recognize the need for more treatment approaches for dealing with individuals whose crimes result from obviously disordered thought processes. Unfortunately, effective treatment approaches, and effective methods for implementing them, have also not yet been clearly identified.

The rehabilitation of "fixated" pedophiles (those whose normal, preferred sexual orientation is toward children) has proven to be especially elusive. Because there has been, to date, no reported effective "cure" for such persons, the Task Force recommended that parole officers should be required to provide intensive supervision of parolees who have been convicted of sexual offenses against a child. Close monitoring of the activities of these individuals may provide the best possible protection for children who could otherwise become future victims.

CONCLUSION

Unprecedented attention has been focused on missing children during the past two and a half years. Although much of the emphasis has been on young children who are abducted by strangers, the vast majority of reported missing children in Virginia and the nation are adolescent runaways. The effectiveness of Virginia's response to these problems will depend largely upon comprehensive coordination of preventive education, recovery efforts, and service programs for runaways and their families. The recommendations contained in this report are not offered as final solutions to all the problems that have been addressed but should be considered important steps in making progress toward the best possible protection for the children of the Commonwealth.

APPENDIX I

MEMBERS OF THE TASK FORCE ON MISSING CHILDREN

VIRGINIA TASK FORCE ON MISSING CHILDREN

CHAIR

The Honorable A. Joe Canada, Jr.
Virginia Beach

Virginia State Senate

STAFF COORDINATOR

Mr. William D. Bestpitch

Virginia Division for Children

MEMBERS

Reverend David L. Bailey, Jr., Director of
Legislative Concerns & Public Witness

Virginia Council of Churches

Dr. Jane Bottlinger, Child & Adolescent
Psychiatrist-Psychiatric Institute
of Richmond

Neuropsychiatric Society of Virginia

Mr. Jerry Boyd

Concerned Citizen

Mr. Terry Bynum, News Director

WTVR-TV 6, Richmond

Mrs. Martha N. Gilbert, Director

Virginia Division for Children

Mrs. Jack N. Herod, Executive
Director

Virginia Association of Independent
Schools

Ms. Helen J. Hill, Associate Director
for Pupil Personnel Services

Virginia Department of Education

Ms. Brenda Kerr, Child Welfare Supervisor,
Bureau of Child Welfare Services

Virginia Department of Social Services

Mrs. Pearl F. Lineberry, President

Virginia Congress of Parents and
Teachers

The Honorable Leroy T. McAllister
King William County Board of
Supervisors

Virginia Association of Counties

Mr. Allen H. McCreight, Special
Agent in Charge (Richmond Division)

Federal Bureau of Investigation

St. Thelma Milgrim, Juvenile Officer

Wythe County Sheriff's Department

The Honorable Yvonne B. Miller
Norfolk

Virginia House of Delegates

Major J. H. Mutispaugh, Chesterfield
County Sheriff's Department

Virginia State Sheriffs' Association

Mr. James T. Roberts, Chief,
Corrections Services

Captain V. L. Simmons, Commanding
Officer, Youth Division

Mr. Joseph Speidel, Coordinator

Captain W. R. Wagner
Records and Statistics Officer

The Honorable D. F. Willis, Member
Danville City Council

Chief John M. Wolford
Ashland Police Department

EX OFFICIO

David A. Fitch, Ph.D., Director
of Children and Youth Services

Virginia Department of Criminal
Justice Services

Norfolk Department of Police

Greater Richmond Area Network for
Runaway and Homeless Youth

Virginia Department of State Police

Virginia Municipal League

Virginia Association of Chiefs of
Police

Virginia Department of Mental Health
and Mental Retardation

APPENDIX II
LEGISLATIVE PROPOSALS

A BILL to amend the Code of Virginia by adding a section numbered 15.1-131.9 and by adding in Title 52 a chapter numbered 7, containing sections numbered 52-31 through 52-34, establishing a Missing Children Information Clearinghouse.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 15.1-131.9 and by adding in Title 52 a chapter numbered 7, containing sections numbered 52-31 through 52-34 as follows:

Section 15.1-131.9. Receipt of missing child reports.--No police or sheriff's department shall establish or maintain any policy which requires the observance of any waiting period before accepting a missing child report as defined in section 52-32. Immediately upon receipt of a missing child report by any police or sheriff's department, the department shall forward the report to the Missing Children Information Clearinghouse, notify all other law-enforcement agencies in the area and initiate an investigation of the case.

CHAPTER 7

MISSING CHILDREN INFORMATION CLEARINGHOUSE

Section 52-31. Missing Children Information Clearinghouse established.--The Superintendent shall establish, organize, equip, staff and maintain within the Department of State Police a Missing Children Information Clearinghouse as a central repository of information regarding missing children. Such information shall be collected, processed, maintained and disseminated by the Clearinghouse as accurately and completely as

possible to assist in the location of missing children.

Section 52-32. Definitions.--As used in this chapter unless the context requires otherwise or it is otherwise specifically provided:

"Missing child" means any person who is under the age of eighteen years, whose temporary or permanent residence is in Virginia, or is believed to be in Virginia, whose whereabouts are unknown to any parent, guardian, legal custodian or other person standing in loco parentis of the child, and who has been reported as missing to a law-enforcement agency within the Commonwealth.

"Missing child report" means a report prepared on a form designed by the Superintendent for use by law-enforcement agencies to report missing child information to the Missing Children Information Clearinghouse.

Section 52-33. Powers and duties of Clearinghouse.--The Clearinghouse shall have the following powers and duties:

A. To maintain a centralized file for the exchange of information on missing children within the Commonwealth. The Clearinghouse shall accept a missing child report from any law-enforcement officer as defined in section 9-169. Any parent, guardian, legal custodian or other person standing in loco parentis of a missing child may contact the Clearinghouse to verify the entry of a missing child report on such child. If the Clearinghouse is requested to verify a missing child report which has not been received, the Clearinghouse shall immediately contact the appropriate law-enforcement agency and take such measures as may be necessary to determine whether a report should be entered in the centralized file.

B. To maintain a system of intrastate communication to receive information relating to the disappearance or sighting of a missing child.

Such system shall be available twenty-four hours per day, seven days per week.

C. To maintain close liaison with the National Crime Information Center and the National Center for Missing and Exploited Children for the exchange of information on children suspected of interstate travel and for assistance in the operation of the Clearinghouse.

D. To circulate a monthly bulletin on missing children to the news media, all law-enforcement agencies, and every school in the state.

E. To provide emergency flyers containing physical and situational descriptions of missing children when requested by law-enforcement agencies.

F. To provide for training of public and private organizations regarding the operation of the Clearinghouse.

G. To provide assistance to law-enforcement agencies in planning and implementing programs to fingerprint children.

Section 52-34. Notification required when missing child located.--
Any law-enforcement officer who has reported a missing child to the Clearinghouse shall notify the Clearinghouse immediately upon determining the location of the child.

A BILL to amend the Code of Virginia by adding a section numbered 22.1-259.1, relating to notification of parent or guardian when a pupil fails to report to school.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-259.1 as follows:

Section 22.1-259.1. Notification when pupil fails to report to school.--Whenever a pupil fails to report to school on a regularly scheduled school day, and the school has received no indication that the pupil's parent or guardian is aware of the absence, a reasonable effort to notify the parent or guardian will be made by school personnel or volunteers organized by the school for this purpose.

A BILL to amend and reenact sections 22.1-4 and 22.1-289 of the Code of Virginia, relating to reports of possible missing children cases by school divisions superintendents.

Be it enacted by the General Assembly of Virginia:

1. That sections 22.1-4 and 22.1-289 of the Code of Virginia are amended and reenacted as follows:

Section 22.1-4. Admission of children whose age is not ascertainable because of lack of birth certificate.--Any child whose age is not ascertainable because of lack of birth certificate shall nonetheless be admitted into the public schools upon affidavit of any person acceptable to the division superintendent as being able to estimate with reasonable certainty the age of such child. The division superintendent with the assistance of the local superintendent of public welfare shall secure a birth certificate for such child as soon thereafter as reasonable. *Any case in which the division superintendent receives no satisfactory explanation for the lack of birth certificate shall be reported by the superintendent to the local police or sheriff's department for investigation as a possible missing child.*

Section 22.1-289. Transfer of cumulative records.--Whenever a pupil transfers from one school division to another, the cumulative record of the pupil, which may be available to the pupil's parent for inspection during consultation with a certified employee of the school division from which the pupil is transferring, or a copy of the record shall be transferred to the school division to which the pupil transfers if a request for such cumulative record is received from the school division to which transfer is made. The Board of Education may adopt regulations concerning the

transfer of cumulative records from one school division to another. Any case in which the school division to which a pupil transfers is unable to obtain the pupil's record within thirty days of enrollment shall be reported by the division superintendent to the local police or sheriff's department for investigation as a possible missing child.

A BILL to amend the Code of Virginia by adding a section numbered 22.1-299.1, relating to criminal history record information for public school employees.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-299.1 as follows:

Section 22.1-299.1. Criminal history record information for public school employees.--As a condition to employment, the school board shall obtain a copy of the criminal history record information, or a certification that no conviction data is maintained, from the Central Criminal Records Exchange as provided in section 19.2-389 for every public school employee, including without limitation teachers, cafeteria workers, janitors, and bus drivers.

A BILL to amend and reenact sections 63.1-198 and 63.1-199 of the Code of Virginia, relating to investigation of applications and issuance or refusal of licenses for child-welfare agencies.

Be it enacted by the General Assembly of Virginia:

1. That sections 63.1-198 and 63.1-199 of the Code of Virginia are amended and reenacted as follows:

Section 63.1-198. Investigation on receipt of application.--Upon receipt of the application the Commissioner shall cause an investigation to be made of the activities, services and facilities of the applicant, of the applicant's financial responsibility, and of his character and reputation or, if the applicant be an association, partnership or corporation, the character and reputation of its officers and agents. *As part of the investigation of the character and reputation of the applicant or, if the applicant be an association, partnership or corporation, of its officers and agents, the Commissioner shall obtain a copy of the criminal history record information, or a certification that no conviction data is maintained, for each such applicant, officer or agent from the Central Criminal Records Exchange as provided in section 19.2-389.* The applicant shall afford the representatives of the Commissioner required to make the investigation reasonable opportunity to inspect all of the applicant's facilities, books and records, and to interview his or its agents and employees and any child or other person within his or its custody or control.

Section 63.1-199. Issuance or refusal of license; notification.--Upon completion of such investigation, the Commissioner shall issue an appropriate license to the applicant if such applicant has made adequate provision for such activities, services and facilities as are reasonably condu-

cive to the welfare of the children over whom he may have custody or control, if his financial responsibility is such as to give reasonable assurance of the continued maintenance of such activities, services and facilities, and if he, or the officers and agents of the applicant if it be an association, partnership or corporation, is or are of good character and reputation; otherwise, the license shall be refused. Immediately upon his taking final action, the Commissioner shall notify the applicant of such action. *The Commissioner shall require each recipient of a license to obtain a copy of the criminal history record information, or a certification that no conviction data is maintained, from the Central Criminal Records Exchange as provided in section 19.2-389 for any person applying for employment in a child-welfare agency licensed under this chapter.*

A BILL to amend and to re-enact section 18.2-67 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 19.2-271.3, relating to the testimony of children in certain criminal proceedings.

Be it enacted by the General Assembly of Virginia:

1. That section 18.2-67 of the Code of Virginia is amended and re-enacted and that the Code of Virginia is amended by adding a section numbered 19.2-271 as follows:

Section 18.2-67. Depositions of complaining witnesses in cases of criminal sexual assault and attempted criminal sexual assault; *use of video taped testimony in certain cases.*--A. Before or during the trial for an offense or attempted offense under this article, the judge of the court in which the case is pending, with the consent of the accused first obtained in open court, by an order of record, may direct that the deposition of the complaining witness be taken at a time and place designated in the order, and the judge may adjourn the taking thereof to such other time and places as he may deem necessary. Such deposition shall be taken before a judge of a circuit court in the county or city in which the offense was committed or the trial is had, and the judge shall rule upon all questions of evidence, and otherwise control the taking of the same as though it were taken in open court. At the taking of such deposition the attorney for the Commonwealth, as well as the accused and his attorneys, shall be present and they shall have the same rights in regard to the examination of such witnesses as if he or she were testifying in open court. No other person shall be present unless expressly permitted by the judge. Such deposition shall be read to the jury at the time such

witness might have testified if such deposition had not been taken, and shall be considered by them, and shall have the same force and effect as though such testimony had been given orally in court. The judge may, in like manner, direct other depositions of the complaining witness, in rebuttal or otherwise, which shall be taken and read in the manner and under the conditions herein prescribed as to the first deposition. The cost of taking such depositions shall be paid by the Commonwealth.

8. *In any criminal proceeding pursuant to sections 18.2-47 through 18.2-50.1; or sections 18.2-61 through 18.2-67.10; or sections 18.2-362 through 18.2-371.1, wherein the alleged victim of the abuse, neglect or offense is a child under the age of fourteen years at the time of the preliminary hearing, a recording of a statement of the child made prior to the preliminary hearing is admissible into evidence during the proceedings if:*

1. *No attorney for either party was present when the statement was made; and*
2. *The statement was not made in response to questioning calculated to lead the child to make a particular statement; and*
3. *The persons conducting the interview of the child were authorized to do so by the child-protective services coordinator of the local department of welfare or social services and are present at the proceeding and available to testify or be cross-examined by either party; and*
4. *The child is present at the proceeding and available to testify or be cross-examined by either party; and*
5. *The recording is both visual and oral and is recorded on video tape or by other electronic means; and*
6. *The recording equipment was capable of making an accurate recording, the operator of the equipment was competent, and the recording is*

accurate and has not been altered; and

*7. Every person in, and every voice on, the recording is identified;
and*

8. The parties or their attorneys on both sides are afforded the opportunity to view the recording within a reasonable time before it is offered into evidence.

Section 19.2-271.3. Competency of children as witnesses.--No child shall be deemed incompetent to testify in any criminal proceeding pursuant to sections 28.2-47 through 18.2-50.1; or sections 18.2-61 through 18.2-67.10; or sections 18.2-362 through 18.2-371.1, wherein the child is the alleged victim of the abuse, neglect or offense, solely by reason of age, but the age of a child may be considered in determining the weight to be given to the child's testimony.

A BILL to amend and reenact section 19.2-298 of the Code of Virginia,
relating to pronouncement of sentence in certain cases.

Be it enacted by the General Assembly of Virginia:

1. That section 19.2-298 of the Code of Virginia is amended and reenacted as follows:

Section 19.2-298. Pronouncement of sentence.--After a finding of guilty, sentence shall be pronounced, or decision to suspend the imposition of sentence shall be announced, without unreasonable delay. Pending pronouncement, the court may commit the accused to jail or may continue or alter the bail except that in those cases where the accused is convicted of a murder in the first degree, the court shall commit him to jail and he shall not be allowed bail pending the pronouncement of sentence. Before pronouncing the sentence, the court shall inquire of the accused if he desires to make a statement and if he desires to advance any reason why judgement should not be pronounced against him. *The court may, or on the motion of the Commonwealth's attorney shall, also allow the victim of the offense, or the parent, guardian or other person standing in loco parentis of a victim who is a minor, to testify as to the effect of the offense upon the victim and his family.*

APPENDIX III

MODEL POLICY STATEMENT FOR LAW ENFORCEMENT AGENCIES

RECOMMENDED MODEL POLICY STATEMENT TO BE ENDORSED BY THE
VIRGINIA ASSOCIATION OF CHIEFS OF POLICE AND THE VIRGINIA STATE SHERIFFS'
ASSOCIATION FOR ADOPTION BY THEIR MEMBERS

Recognizing the unique relationship of the law-enforcement community with juveniles and their families, it is the policy of this department -

- . To assign a high priority to the handling of all juvenile matters.
- . To assign willing and well-trained personnel to handle all juvenile-related matters.
- . To immediately respond to all reports of missing juveniles, regardless of age, with standardized reporting and investigative procedures, including the entry of descriptive information into the Virginia Crime Information Network and National Crime Information Center.
- . To utilize the resources of the Federal Bureau of Investigation in the investigation of all verified missing children cases, to include the services of local field offices within their ability to assist, the laboratory services in Washington, D.C., and the assistance of the Behavioral Sciences Unit of the FBI Academy at Quantico, Virginia.
- . To develop and implement creative and effective programs which involve collaboration of investigative efforts between law-enforcement personnel and protective services workers.
- . To develop and implement, in cooperation with other community services, education and prevention programs dealing with the

issue of missing children.

- . To support and assist in fingerprinting programs which include:
 - A. informational packets explaining the process and emphasizing prevention practices.
 - B. efforts to ensure the quality of fingerprints taken.
 - C. safeguards to ensure that only parents receive the fingerprints taken, and
 - D. information to parents that fingerprints may be helpful as a tool for identification of a missing child but provide no protection against abduction.

APPENDIX IV
PENALTIES FOR CRIMES AGAINST CHILDREN

Class 1 felonies punishable by death or imprisonment for life (18.2 - 10):

- Murder in the commission of an abduction committed with the intent to extort money or a pecuniary benefit (18.2 - 31).
- Murder in the commission of rape (including any sexual intercourse with a female under the age of thirteen) (18.2 - 31).

Class 2 felonies punishable by imprisonment for life or for any term not less than twenty years (18.2 - 10):

- Abduction with intent to defile and abduction of any female under 16 years of age for the purposes of concubinage or prostitution (18.2 - 48).
- Murder in the commission of an abduction except as noted above (18.2 - 32).

Class 3 felonies punishable by imprisonment for five to twenty years (18.2 - 10):

- Anal or oral carnal knowledge by a parent of his or her child aged 13 or 14 (18.2 - 361).
- Adultery or fornication with child or grandchild aged 13 or 14 (18.2 - 366).

Class 4 felonies punishable by imprisonment for two to ten years (18.2 - 10):

- Carnal knowledge of child aged 13 or 14 (18.2 - 63).
- Pandering (18.2 - 355).

Class 5 felonies punishable by imprisonment for one to ten years, or confinement in jail for not more than twelve months and a fine of not more than \$1 000, either or both (18.2 - 10):

- Abduction by other than a parent (18.2 - 47).
- Adultery or fornication with child or grandchild (18.2 - 366).
- Child neglect (18.3 - 371.1).

Class 6 felonies punishable by imprisonment for one to five years, or confinement in jail for not more than twelve months and a fine of not more than \$1,000, either or both (18.2 - 10):

- Abduction by a parent when punishable as contempt of court in any proceeding then pending and the person abducted is removed from the Commonwealth by the abducting parent (18.2 - 47).
- Indecent liberties with a child under the age of fourteen (18.2 - 370).
- Indecent liberties with a minor by person in custodial or supervisory relationship (18.2 - 370.1).
- Child pornography (18.2 - 374).

Class 1 misdemeanors punishable by confinement in jail for not more than twelve months and a fine of not more than \$1,000, either or both (18.2 - 11):

- Abduction by a parent when punishable as contempt of court in any proceeding then pending (18.2 - 47).
- Causing or encouraging acts rendering child delinquent, in need of services, abused, or neglected (18.2 - 371).
- Sale of obscene material to juvenile (18.2 - 391).
- Sexual battery (18.2 - 67.4).

Unclassified felonies punishable by imprisonment for five years to life:

- Rape (including any sexual intercourse with a female under the age of thirteen) (18.2 - 61).
- Forcible sodomy (18.2 - 67.1).
- Inanimate object sexual penetration (18.2 - 67.2).

Unclassified felony punishable by imprisonment for one to twenty years:

- Aggravated sexual battery (18.2 - 67.3).

