

**REPORT OF THE
DEPARTMENT OF SOCIAL SERVICES**

**REPORT ON NEWBORN
INFANTS DEPENDENT ON
CONTROLLED SUBSTANCE**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 9

**COMMONWEALTH OF VIRGINIA
RICHMOND
2000**



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COMMONWEALTH of VIRGINIA
DEPARTMENT OF SOCIAL SERVICES

Clarence H. Carter
Commissioner

October 1, 1999

TO: The Honorable James S. Gilmore, III

and

The General Assembly of Virginia

The report contained herein is pursuant to House Bill 803 and Senate Bill 557 as approved by the 1998 General Assembly.

The Department of Social Services has prepared the attached report which focuses on the implementation of Section 63.1-248.3(A1) of the *Code of Virginia*. The new law, which went into effect on July 1, 1998, requires physicians to file a report with Child Protective Services whenever a newborn infant shows evidence of exposure to a controlled substance or signs of fetal alcohol syndrome.

The report costed the Commonwealth \$7,929.44 to complete. This amount includes the cost for staff from five agencies to compile the needed data and department staff to write the report. Staff from the five agencies spent 140 hours collecting the data. Department staff spent 108 hours analyzing the data and writing the report. This is a staff commitment of 248 hours.

Respectfully Submitted,


Clarence H. Carter
Commissioner

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EXECUTIVE SUMMARY

House Bill (HB) 803 and Senate Bill (SB) 557, as passed by the 1998 General Assembly, requires the Virginia Department of Social Services to report to the Governor and the General Assembly on October 1, 1999, about the implementation of Section 63.1-248.3 of the *Code of Virginia*. Under the new law that went into effect on July 1, 1998, physicians are required to file a report with Child Protective Services (CPS) whenever a newborn infant evidences exposure to a controlled substance or shows signs of fetal alcohol syndrome.

This report focuses on the implementation of this reporting requirement and includes information compiled in conjunction with the Board of Medicine; the Departments of Health; Mental Health, Mental Retardation and Substance Abuse Services; and the Office of the Executive Secretary of the Supreme Court of Virginia.

Local departments of social services received 203 reports from medical personnel alleging that an infant had been exposed to a substance during the nine-month time frame of this report. Forty-eight of these cases were reviewed by Department staff to obtain additional information. The data collected from the CPS case review indicated that substance abuse services for mothers are frequently offered in both founded and unfounded cases, generally through the community services boards or Project LINK. Placement of infants occurs in both unfounded and founded reports, but at a higher rate in founded cases.

The following recommendations are made as a result of this study:

Recommendation 1: Improve data collection for the tracking of substance-exposed infants.

Recommendation 2: Encourage the Board of Medicine to provide education to physicians to increase recognition of substance use in pregnant mothers and the societal consequences for these mothers and their infants if services and treatment are not provided.

Recommendation 3: Conduct training for Child Protective Services workers to better recognize the threat of harm to infants when their mothers are continuing to abuse substances.

Recommendation 4: Encourage the use of Qualified Service Organization Agreements among local agencies to facilitate collaborative efforts based on information sharing on behalf of substance-exposed infants and their mothers.

INTRODUCTION

House Bill (HB) 803 and Senate Bill (SB) 557, as passed by the 1998 General Assembly, modifies Section 63.1-248.3 of the *Code of Virginia*. (See Appendix 1 for a copy of HB 803 and SB 557.) Under the new law which went into effect on July 1, 1998, physicians shall file a report with Child Protective Services (CPS) whenever a newborn infant evidences exposure to a controlled substance or signs of fetal alcohol syndrome. The Virginia Department of Social Services is required to report to the Governor and the General Assembly on October 1, 1999, the status of implementing this new law.

The Department of Social Services convened a task force, made up of representatives from the Departments Health; Mental Health, Mental Retardation and Substance Abuse Services; Board of Medicine; and Office of the Executive Secretary of the Supreme Court of Virginia to determine what these agencies have done to implement the law. (See Appendix II for a listing of the task force members.) The information contained in this report is the result of the work of this task force.

BACKGROUND

In 1991, the General Assembly requested the Secretary of Health and Human Resources and the Secretary of Education to convene a task force to study the impact of perinatal substance abuse. The task force was to recommend interdisciplinary approaches to prevention, early intervention, and treatment services for drug exposed children and their families. In 1992, a report was issued stating that:

- pregnant women who use alcohol and other drugs risk their infants' normal health and development;
- substance abuse could result in such adverse effects on the newborn as growth retardation, mental retardation, and developmental disorders; and
- substance abuse increases the risk of poor maternal-infant bonding.

The task force's report in 1992 recommended a continuum of intervention and treatment. The recommendations included:

- designing a program to identify substance-abusing women and their children early;
- linking these women and children with appropriate services;
- collecting information about the demographics of this population; and
- collecting information on the needs and costs of services.

The task force's report stated that for pregnant, substance-abusing women, the threat of punitive action could be a serious deterrent to seeking prenatal care. Women who thought they

would immediately be reported to child welfare agencies may choose not to obtain any medical attention during their pregnancies.

Both child welfare programs and substance abuse treatment programs are subject to state and federal laws of confidentiality to safeguard clients' rights to privacy. This shields clients from intrusive outside scrutiny while their problems are being addressed. Frequently, there are equally important reasons to share information about clients between agencies. Federal substance abuse confidentiality rules are interpreted to preclude the sharing of information, but Qualified Service Organization Agreements (QSOAs) may be established between agencies at the local level to facilitate communication about clients, without their consent. According to the Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS), hospitals and physicians have been reluctant to enter into these agreements, citing liability issues.

In addition, DMHMRSAS states there may be an economic disincentive for private hospitals and physicians to report their patients to Child Protective Services. Private hospitals market maternal and child health and do not want to jeopardize the relationship so carefully developed with their patients.

STEPS TAKEN TOWARD IMPLEMENTATION OF HOUSE BILL 803 AND SENATE BILL 557

The Department of Social Services provided revised CPS policy to all local departments of social services on how to accept and respond to reports on substance-exposed infants. In the summer of 1998, the Department extensively publicized the requirements of HB 803 by sending a notice explaining the law change. The notice explained the changes to Section 63.1-248.3, provided a copy of HB 803 and a copy of Child Protective Services Regulations effective January 1, 1998.

In the spring of 1999, the Department of Social Services surveyed hospitals in large urban centers to determine their protocols for physicians and staff to respond to mothers and substance-exposed newborns. The survey revealed that hospitals are required to provide discharge plans for post-partum, substance-abusing women, their infants, and families. The hospitals are also required to contact the local community services board (CSB), which, in turn, assigns a discharge plan manager.

The Department of Social Services contracted with the Virginia Institute for Social Services Training Activities at Virginia Commonwealth University, to develop a competency-based, one-day course for social workers in local agencies. The course is designed to provide skills in understanding and dealing with clients who are alcohol and drug dependent. The course is focused on the identification of abuse and the need for treatment. It provides information on generally accepted causes of addiction, the impact of various drugs, and several models of treatment.

DATA

Reports to Child Protective Services

Local departments of social services reported to the Department that they had received 203 reports of substance-exposed infants from July 1, 1998 to March 31, 1999. These reports came from physicians, nurses, or hospital social workers on behalf of physicians. Of these 203 reports:

- 121 CPS investigations resulted in an unfounded disposition;
- 47 reports were still pending at the time of data collection;
- 25 CPS investigations resulted in a founded disposition;
- 6 reports were from agencies piloting the Child Protective Services Multiple Response System where a disposition was not required; and
- 4 reports were invalidated because the mother was in treatment and/or the drugs found in the infant were not a result of substance abuse by the mother.

In order to learn more about the 203 reports to CPS, Department staff reviewed 48 case files. Forty of these cases had a CPS investigation that led to a founded or unfounded disposition. Three cases received a Family Assessment because they were from one of the agencies in the Multiple Response System pilot. The remaining five cases included one report that could not be investigated because the agency was unable to locate the mother and four reports that were invalidated.

Forty-three of the 48 cases that were reviewed indicated that either the mother or the infant, or both, tested positive for the following substances:

- Cocaine 30
- Marijuana 7
- Alcohol 1
- Barbiturates 2
- Poly-drugs 3

Of the 25 cases reviewed which had unfounded dispositions, the CPS worker referred 24 mothers for the following services:

- Project LINK 9
- Substance Abuse Services 8
- Child Placed Outside the Home 5
- Shelter/Housing 4
- Parenting Classes 3
- In-Home Services 2
- Baby Supplies 2
- Other 2

Local departments of social services and other community service providers focused their efforts on providing substance abuse services for the mothers along with intensive family-based services to support and stabilize the family.

Of the 15 cases with founded dispositions*, the following types of abuse or neglect were confirmed:

- Inadequate Supervision 10
- Abandonment 4
- Physical Abuse 2
- Medical Neglect 2
- Inadequate Shelter 1

*(Please note that a report may involve more than one type of abuse or neglect.)

Of the 15 founded cases, the following services were offered and/or provided:

- Substance Abuse Services 8
- Child Placed Outside the Home 8
- Other 3
- Project LINK 1
- Parenting Classes 1

Similar to the services offered to families in unfounded cases, substance abuse treatment for the mother was identified as the most needed service. However, services to protect the child were more often noted in founded cases, specifically the need for court intervention.

Referrals to Community Services Boards

The Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) is responsible for the administration, planning and regulation of substance abuse services in the Commonwealth. The provision of treatment for consumers in need of public substance abuse services is under the auspices of 40 Community Services Boards (CSBs). All CSBs provide emergency services, prevention, and outpatient treatment. In addition, a purchase of services allocation allows CSBs to provide residential services, including community-based detoxification. This arrangement allows access to services by clients in need, regardless of the location of the services. (See Appendix III for a description of services provided by the CSB.)

DMHMRSAS, with input from the Virginia Association of Community Services Boards, surveyed the 40 CSBs to determine how many mothers and infants were referred for services as a result of HB 803/SB 557. The survey revealed that 83 mothers and 57 infants were identified as having been referred by local departments of social services to CSBs between July 1, 1998, and December 31, 1998. Of those referred:

- 56 mothers and 44 infants for cocaine
- 7 mothers and 1 infant for marijuana
- 7 mothers and 3 infants tested positive for other drugs
- 6 mothers and 6 infants were identified as having tested positive for heroin
- 4 mothers and 3 infants for alcohol
- 3 mothers and 0 infants for amphetamines

Of the mothers and infants referred to CSBs, 48 mothers and 20 infants received services. Mothers received the following substance abuse services and in some instances, they received more than one service:

- 55 mothers received intake, assessment and diagnosis services
- 51 mothers received case management services
- 32 mothers receive outpatient services
- 10 mothers received intensive outpatient services
- 7 mothers received day treatment services
- 7 mothers intensive residential services
- 4 mothers received methadone detox services
- 3 mothers benefited from supportive residential services
- 2 mothers received highly intensive residential services
- 1 mother received supervised residential services
- 1 mother received opiate replacement services

Court Petitions

To determine the number and disposition of petitions filed with juvenile courts pursuant to Section 16.1-241.3, Supreme Court of Virginia conducted an analysis of the juvenile and domestic relations district courts in February 1999, and again in June 1999, through its Court Automated Information System (CAIS). These analyses sought to identify all petitions filed pursuant to Section 16.1-241.3 since July 1, 1998.

No petitions were found to have been filed pursuant to Section 16.1-241.3 in the February 1999 analysis, and only one petition was identified in June. Numerous petitions of protective orders for children were filed in the juvenile courts under other sections of the *Code of Virginia*, such as Sections 16.1-251 (emergency removal order for children) and 16.1-253 (preliminary protective order for children). It is not possible to identify from CAIS whether any of these petitions involved infants who were drug or alcohol exposed at birth. CAIS collects data that indicates the statutory authority for filing a petition but does not record the details of why a petition has been filed.

The lack of information in the court system about protective orders pursuant to Section 16.1-241.3 does not necessarily indicate that the law is not being used. It may mean that attorneys for local departments of social services or the agencies themselves are choosing to file

for protection of these children under other more familiar provisions of the law to achieve essentially the same results.

Department of Health Data

The Department of Health (VDH) collects data about substance use on the birth certificate application. This section asks if a particular substance was used during the pregnancy, but does not specify when. This means a woman could report using an illegal substance even if she used it during the first trimester, received treatment, and is no longer using it at the time of her baby's birth. Because the information tendered is a voluntary self-report, its reliability is unknown. VDH is prohibited from using this section of the birth certificate as a means of tracking individual patients because it would violate their confidentiality.

VDH prepared a special statistical run based on currently available data as collected on birth certificates from July 1998 through March 1999. It should be noted that the tabulations are from incomplete data. VDH urges caution in making determinations and recommendations from this data.

The following information was obtained:

Total births	64,059
Tobacco	6,495
Drugs-duplicate*	431
Alcohol	422
Cocaine	240
Marijuana	177
Heroin	65
Other drugs	28
Methadone	27
Amphetamines	7

* (Mother could report using more than one type of drug.)

RECOMMENDATIONS FOR CONTINUED IMPLEMENTATION

Based on the results of the study, the following recommendations are being made.

Recommendation 1: Improve data collection for the tracking of substance-exposed infants.

It is the intent of the Department of Mental Health, Mental Retardation and Substance Abuse Services to put into place a means for tracking referrals to community services board as a result of this legislation. The Department of Social Services has implemented a new child abuse and neglect information system that will improve the data collection efforts for the next report.

Recommendation 2: Encourage the Board of Medicine to provide education to physicians to increase recognition of substance use in pregnant mothers and the societal consequences for these mothers and their infants if services and treatment are not provided.

The Board of Medicine may target information in continuing education courses, conferences, and workshops so that physicians can update their knowledge, skills and abilities to recognize substance abuse use in pregnant mothers, and to understand the societal consequences. This information may also be placed on the Board of Medicine Web Page.

Recommendation 3: Conduct training for Child Protective Services workers to better recognize the threat of harm to infants when their mothers are continuing to abuse substances.

The Department of Social Services will sponsor training of Child Protective Services workers to increase knowledge, skills, and abilities in working with substance abusing mothers and their infants.

Recommendation 4: Encourage the use of Qualified Service Organization Agreements among local agencies to facilitate collaborative efforts based on information sharing on behalf of substance-exposed infants and their mothers.

The Departments of Social Services; Mental Health, Mental Retardation and Substance Abuse Services; Health; Virginia Board of Medicine; and Office of the Executive Secretary of the Supreme Court of Virginia are committed to collaborative and ongoing efforts to increase the use of these agreements.

APPENDIX I

[summary](#) | [pdf](#)**CHAPTER 716**

An Act to amend and reenact §§ 63.1-248.3 and 63.1-248.6 of the Code of Virginia, as they are currently effective and as they may become effective, and to amend the Code of Virginia by adding a section numbered 16.1-241.3, relating to child protective services.

[H 803]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§63.1-248.3 and 63.1-248.6 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-241.3 as follows:

§16.1-241.3. Newborn children; substance abuse.

Upon the filing of a petition, within twenty-one days of a child's birth, alleging that an investigation has been commenced in response to a report of suspected abuse or neglect of the child based upon a factor specified in subsection A1 of §63.1-248.3, the court may enter any order authorized pursuant to this chapter which the court deems necessary to protect the health and welfare of the child pending final disposition of the investigation pursuant to Chapter 12.1 (§63.1-248.1 et seq.) of Title 63.1 or other proceedings brought pursuant to this chapter. Such orders may include, but shall not be limited to, an emergency removal order pursuant to §16.1-251, a preliminary protective order pursuant to §16.1-253 or an order authorized pursuant to subdivisions 1 through 4 of subsection A of §16.1-278.2. The fact that an order was entered pursuant to this section shall not be admissible as evidence in any criminal, civil or administrative proceeding other than a proceeding to enforce the order.

The order shall be effective for a limited duration not to exceed the period of time necessary to conclude the investigation and any proceedings initiated pursuant to Chapter 12.1 (§63.1-248.1 et seq.) of Title 63.1, but shall be a final order subject to appeal.

§63.1-248.3. Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts,
2. Any hospital resident or intern, and any person employed in the nursing profession,
3. Any person employed as a social worker,
4. Any probation officer,
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school,
6. Any person providing full-time or part-time child care for pay on a regularly planned basis,

7. Any duly accredited Christian Science practitioner,
8. Any mental health professional,
9. Any law-enforcement officer,
10. Any mediator eligible to receive court referrals pursuant to §8.01-576.8,
11. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment, and
12. Any person associated with or employed by any private organization responsible for the care, custody or control of children.

If neither the locality in which the child resides or where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department of Social Services' toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the juvenile and domestic relations district court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge of the juvenile and domestic relations district court shall assign the report to a local department of social services that is not the employer of the suspected employee for investigation; or, if the judge believes that no local department of social services within a reasonable geographic distance can be impartial in investigating the reported case, the judge shall assign the report to the court service unit of his court for investigation. The judge may consult with the State Department of Social Services in selecting a local department to conduct the investigation.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the State Board of Social Services. The person required to make the report shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department investigating the reported case of child abuse or neglect any records or reports which document the basis for the report.

A1. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician, (ii) a finding by an attending physician made within forty-eight hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms, (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child, or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal

alcohol syndrome attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

B. Any person required to file a report pursuant to ~~subsection A~~ of this section who fails to do so within seventy-two hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

§63.1-248.3. (Delayed effective date) Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts,
2. Any hospital resident or intern, and any person employed in the nursing profession,
3. Any person employed as a social worker,
4. Any probation officer,
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school,
6. Any person providing full-time or part-time child care for pay on a regularly planned basis,
7. Any duly accredited Christian Science practitioner,
8. Any mental health professional,
9. Any law-enforcement officer,
10. Any mediator eligible to receive court referrals pursuant to §8.01-576.8,
11. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment, and
12. Any person associated with or employed by any private organization responsible for the care, custody or control of children.

If neither the locality in which the child resides or where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department of Social Services' toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the family court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge of the family court shall assign the report to a local department of social services that is not the employer of the suspected employee for investigation; or, if the judge

believes that no local department of social services in a reasonable geographic distance can be impartial in investigating the reported case, the judge shall assign the report to the court service unit of his court for investigation. The judge may consult with the State Department of Social Services in selecting a local department to conduct the investigation.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the State Board of Social Services. The person required to make the report shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department investigating the reported case of child abuse or neglect any records or reports which document the basis for the report.

A1. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician, (ii) a finding by an attending physician made within forty-eight hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms, (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child, or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report, along with the facts relied upon by the person making the report.

B. Any person required to file a report pursuant to subsection A of this section who fails to do so within seventy-two hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

§63.1-248.6. Local departments to establish child-protective services; duties.

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

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or

state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation *and, if the report or complaint was based upon one of the factors specified in subsection A1 of §63.1-248.3, the department may file a petition pursuant to §16.1-241.3;*

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry, *except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection A1 of §63.1-248.3, if the mother sought substance abuse counseling or treatment prior to the child's birth;*

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such removal;

5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of ~~§18.2-371~~, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such reasonable diligence shall be placed in the record;

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

was suspected of abuse or neglect;

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

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

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

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

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

H. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case

in chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

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

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

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

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation *and, if the report or complaint was based upon one of the factors specified in subsection A1 of §63.1-248.3, the department may file a petition pursuant to §16.1-241.3;*

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry, *except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection A1 of §63.1-248.3, if the mother sought substance abuse counseling or treatment prior to the child's birth;*

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such

removal;

5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of § ~~18.2-371~~, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for a direct report to the attorney for the Commonwealth and the local law-enforcement agency;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such reasonable diligence shall be placed in the record;

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

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

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in

order for the receiving agency to arrange protective and rehabilitative services as required by this section.

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

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

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

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

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

2. That on or before October 1, 1999, and each year thereafter for the following two years, the Department of Social Services shall report to the General Assembly on the implementation of this act. The report shall include data compiled in conjunction with the State Board of Medicine, the Department of Health, the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Office of the Executive Secretary of the Supreme Court, on the numbers of mothers and infants affected, the number of reports made pursuant to subsection A1 of §63.1-248.3 and investigations resulting therefrom, the outcome of those investigations, the number of petitions filed with the juvenile courts pursuant to §16.1-241.3 and the disposition on those petitions, the types of treatments and other services provided and such other information as representatives of those departments having expertise in perinatal addiction or abuse and neglect cases deem appropriate to a thorough evaluation of this act. For purposes of preparing this report, the departments and offices shall establish procedures which are necessary and appropriate to track cases involving suspected addiction of newborn infants during the period to be covered by the report.

[summary](#) | [pdf](#)**CHAPTER 704**

An Act to amend and reenact §§ 63.1-248.3 and 63.1-248.6 of the Code of Virginia, as they are currently effective and as they may become effective, and to amend the Code of Virginia by adding a section numbered 16.1-241.3, relating to child protective services.

[S 557]

Approved April 16, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§63.1-248.3 and 63.1-248.6 of the Code of Virginia, as they are currently effective and as they may become effective, are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-241.3 as follows:

§16.1-241.3. *Newborn children; substance abuse.*

Upon the filing of a petition, within twenty-one days of a child's birth, alleging that an investigation has been commenced in response to a report of suspected abuse or neglect of the child based upon a factor specified in subsection A1 of §63.1-248.3, the court may enter any order authorized pursuant to this chapter which the court deems necessary to protect the health and welfare of the child pending final disposition of the investigation pursuant to Chapter 12.1 (§63.1-248.1 et seq.) of Title 63.1 or other proceedings brought pursuant to this chapter. Such orders may include, but shall not be limited to, an emergency removal order pursuant to §16.1-251, a preliminary protective order pursuant to §16.1-253 or an order authorized pursuant to subdivisions 1 through 4 of subsection A of §16.1-278.2. The fact that an order was entered pursuant to this section shall not be admissible as evidence in any criminal, civil or administrative proceeding other than a proceeding to enforce the order.

The order shall be effective for a limited duration not to exceed the period of time necessary to conclude the investigation and any proceedings initiated pursuant to Chapter 12.1 (§63.1-248.1 et seq.) of Title 63.1, but shall be a final order subject to appeal.

§63.1-248.3. Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts,
2. Any hospital resident or intern, and any person employed in the nursing profession,
3. Any person employed as a social worker,
4. Any probation officer,
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school,
6. Any person providing full-time or part-time child care for pay on a regularly planned basis,

7. Any duly accredited Christian Science practitioner,
8. Any mental health professional,
9. Any law-enforcement officer,
10. Any mediator eligible to receive court referrals pursuant to §8.01-576.8,
11. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment, and
12. Any person associated with or employed by any private organization responsible for the care, custody or control of children.

If neither the locality in which the child resides or where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department of Social Services' toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the juvenile and domestic relations district court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge of the juvenile and domestic relations district court shall assign the report to a local department of social services that is not the employer of the suspected employee for investigation; or, if the judge believes that no local department of social services within a reasonable geographic distance can be impartial in investigating the reported case, the judge shall assign the report to the court service unit of his court for investigation. The judge may consult with the State Department of Social Services in selecting a local department to conduct the investigation.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the State Board of Social Services. The person required to make the report shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department investigating the reported case of child abuse or neglect any records or reports which document the basis for the report.

A1. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician, (ii) a finding by an attending physician made within forty-eight hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms, (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child, or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal

alcohol syndrome attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report along with the facts relied upon by the person making the report.

B. Any person required to file a report pursuant to ~~subsection A~~ of this section who fails to do so within seventy-two hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

§63.1-248.3. (Delayed effective date) Physicians, nurses, teachers, etc., to report certain injuries to children; penalty for failure to report.

A. The following persons who, in their professional or official capacity, have reason to suspect that a child is an abused or neglected child, shall report the matter immediately, except as hereinafter provided, to the local department of the county or city wherein the child resides or wherein the abuse or neglect is believed to have occurred or to the Department of Social Services' toll-free child abuse and neglect hotline:

1. Any person licensed to practice medicine or any of the healing arts,
2. Any hospital resident or intern, and any person employed in the nursing profession,
3. Any person employed as a social worker,
4. Any probation officer,
5. Any teacher or other person employed in a public or private school, kindergarten or nursery school,
6. Any person providing full-time or part-time child care for pay on a regularly planned basis,
7. Any duly accredited Christian Science practitioner,
8. Any mental health professional,
9. Any law-enforcement officer,
10. Any mediator eligible to receive court referrals pursuant to §8.01-576.8,
11. Any professional staff person, not previously enumerated, employed by a private or state-operated hospital, institution or facility to which children have been committed or where children have been placed for care and treatment, and
12. Any person associated with or employed by any private organization responsible for the care, custody or control of children.

If neither the locality in which the child resides or where the abuse or neglect is believed to have occurred is known, then such report shall be made to the local department of the county or city where the abuse or neglect was discovered or to the Department of Social Services' toll-free child abuse and neglect hotline.

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the family court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge of the family court shall assign the report to a local department of social services that is not the employer of the suspected employee for investigation; or, if the judge

believes that no local department of social services in a reasonable geographic distance can be impartial in investigating the reported case, the judge shall assign the report to the court service unit of his court for investigation. The judge may consult with the State Department of Social Services in selecting a local department to conduct the investigation.

If the information is received by a teacher, staff member, resident, intern or nurse in the course of professional services in a hospital, school or similar institution, such person may, in place of said report, immediately notify the person in charge of the institution or department, or his designee, who shall make such report forthwith.

The initial report may be an oral report but such report shall be reduced to writing by the child abuse coordinator of the local department on a form prescribed by the State Board of Social Services. The person required to make the report shall disclose all information which is the basis for his suspicion of abuse or neglect of the child and, upon request, shall make available to the child-protective services coordinator and the local department investigating the reported case of child abuse or neglect any records or reports which document the basis for the report.

A1. For purposes of subsection A, "reason to suspect that a child is abused or neglected" shall include (i) a finding made by an attending physician within seven days of a child's birth that the results of a blood or urine test conducted within forty-eight hours of the birth of the child indicate the presence of a controlled substance not prescribed for the mother by a physician, (ii) a finding by an attending physician made within forty-eight hours of a child's birth that the child was born dependent on a controlled substance which was not prescribed by a physician for the mother and has demonstrated withdrawal symptoms, (iii) a diagnosis by an attending physician made within seven days of a child's birth that the child has an illness, disease or condition which, to a reasonable degree of medical certainty, is attributable to in utero exposure to a controlled substance which was not prescribed by a physician for the mother or the child, or (iv) a diagnosis by an attending physician made within seven days of a child's birth that the child has fetal alcohol syndrome attributable to in utero exposure to alcohol. When "reason to suspect" is based upon this subsection, such fact shall be included in the report, along with the facts relied upon by the person making the report.

B. Any person required to file a report pursuant to ~~subsection A~~ of this section who fails to do so within seventy-two hours of his first suspicion of child abuse or neglect shall be fined not more than \$500 for the first failure and for any subsequent failures not less than \$100 nor more than \$1,000.

§63.1-248.6. Local departments to establish child-protective services; duties.

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

B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or

state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation *and, if the report or complaint was based upon one of the factors specified in subsection A1 of §63.1-248.3, the department may file a petition pursuant to §16.1-241.3;*
2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry, *except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection A1 of §63.1-248.3, if the mother sought substance abuse counseling or treatment prior to the child's birth;*
3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;
4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such removal;
5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of §18.2-371, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for direct reports to the attorney for the Commonwealth and the local law-enforcement agency;
6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;
7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such reasonable diligence shall be placed in the record;
8. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person

was suspected of abuse or neglect;

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

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in order for the receiving agency to arrange protective and rehabilitative services as required by this section.

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

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

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

H. Statements, or any evidence derived therefrom, made to local department child-protective services personnel, or to any person performing the duties of such personnel, by any person accused of the abuse, injury, neglect or death of a child after the arrest of such person, shall not be used in evidence in the case

in chief against such person in the criminal proceeding on the question of guilt or innocence over the objection of the accused, unless the statement was made after such person was fully advised (i) of his right to remain silent, (ii) that anything he says may be used against him in a court of law, (iii) that he has a right to the presence of an attorney during any interviews, and (iv) that if he cannot afford an attorney, one will be appointed for him prior to any questioning.

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

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

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B. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, that personnel who investigate reports or complaints that an employee of a private or state-operated hospital, institution or other facility, or an employee of a school board, abused or neglected a child in such hospital, institution or other facility, or public school, are qualified and assisted by the Department in accordance with State Board regulations.

C. The local department shall ensure, through its own personnel or through cooperative arrangements with other local agencies, the capability of receiving reports or complaints and responding to them promptly on a twenty-four-hours-a-day, seven-days-per-week basis.

D. The local department shall widely publicize a telephone number for receiving complaints and reports.

E. The local department shall upon receipt of a report or complaint:

1. Make immediate investigation *and, if the report or complaint was based upon one of the factors specified in subsection A1 of §63.1-248.3, the department may file a petition pursuant to §16.1-241.3;*

2. When investigation of a complaint reveals cause to suspect abuse or neglect, complete a report and transmit it forthwith to the central registry, *except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection A1 of §63.1-248.3, if the mother sought substance abuse counseling or treatment prior to the child's birth;*

3. When abuse or neglect is found, arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. If removal of the child or his siblings from their home is deemed necessary, petition the court for such

removal;

5. Report immediately to the attorney for the Commonwealth and the local law-enforcement agency and make available to them the records of the local department when abuse or neglect is suspected in any case involving (i) death of a child; (ii) injury or threatened injury to the child in which a felony or Class 1 misdemeanor is also suspected; (iii) any sexual abuse, suspected sexual abuse or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in § 18.2-374.1; (iv) any abduction of a child; (v) any felony or Class 1 misdemeanor drug offense involving a child; or (vi) contributing to the delinquency of a minor in violation of §18.2-371, and provide the attorneys for the Commonwealth and the local law-enforcement agency with records of any complaints of abuse or neglect involving the victim or the alleged perpetrator. The local department shall not allow reports of the death of the victim from other local agencies to substitute for a direct report to the attorney for the Commonwealth and the local law-enforcement agency;

6. Send a follow-up report based on the investigation to the central registry within fourteen days and at subsequent intervals to be determined by Board regulations;

7. Determine within forty-five days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the central registry and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of sixty days. If through the exercise of reasonable diligence the department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the forty-five-day or sixty-day period and documentation of such reasonable diligence shall be placed in the record;

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

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

10. Use reasonable diligence to locate (i) any child for whom a report of suspected abuse or neglect has been received and is under investigation or for whom a founded determination of abuse and neglect has been made and a child protective services case opened and (ii) persons who are the subject of a report that is under investigation, if the whereabouts of the child or such persons are unknown to the local department;

11. When an abused or neglected child and the persons who are the subject of an open child protective services case have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which such persons have relocated, whether inside or outside of the Commonwealth, and forward to such agency relevant portions of the case record. The receiving local department shall arrange protective and rehabilitative services as required by this section; and

12. When a child for whom a report of suspected abuse or neglect has been received and is under investigation and the child and/or the child's parents or other persons responsible for the child's care who are the subject of the report that is under investigation have relocated out of the jurisdiction of the local department, notify the child protective services agency in the jurisdiction to which the child and/or such persons have relocated, whether inside or outside of the Commonwealth, and complete such investigation by requesting such agency's assistance in completing the investigation. The local department that completes the investigation shall forward to the receiving agency relevant portions of the case record in

order for the receiving agency to arrange protective and rehabilitative services as required by this section.

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

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

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

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

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

2. That on or before October 1, 1999, and each year thereafter for the following two years, the Department of Social Services shall report to the General Assembly on the implementation of this act. The report shall include data compiled in conjunction with the State Board of Medicine, the Department of Health, the Department of Mental Health, Mental Retardation and Substance Abuse Services and the Office of the Executive Secretary of the Supreme Court, on the numbers of mothers and infants affected, the number of reports made pursuant to subsection A1 of §63.1-248.3 and investigations resulting therefrom, the outcome of those investigations, the number of petitions filed with the juvenile courts pursuant to §16.1-241.3 and the disposition on those petitions, the types of treatments and other services provided and such other information as representatives of those departments having expertise in perinatal addiction or abuse and neglect cases deem appropriate to a thorough evaluation of this act. For purposes of preparing this report, the departments and offices shall establish procedures which are necessary and appropriate to track cases involving suspected addiction of newborn infants during the period to be covered by the report.

APPENDIX II

**TASK FORCE FOR INTERIM REPORT ON
NEWBORN INFANTS DEPENDENT ON CONTROLLED SUBSTANCE**

Rita Katzman, Program Manager
Child Protective Services Program
Virginia Department of Social Services
Theater Row Building
730 East Broad Street
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Telephone 804-692-1207

Janice Jordan, Program Consultant
Office of Substance Abuse Services
Virginia Department of Mental Health, Mental Retardation,
and Substance Abuse Services
1220 Bank Street
Richmond, Virginia 23219
Telephone 804-371-0742

Karen Perrine, Esquire
Deputy Executive Director for Discipline
Virginia Board of Medicine
6606 West Broad Street, 4th Floor
Richmond, Virginia 23230-1717
Telephone 804-662-7693

Kimberly Carswell, Data Analyst
Office of Family Health Services
Virginia Department of Health
1500 East Main Street, Room 104
Post Office 2448
Richmond, Virginia 23218
Telephone 804-786-7099

Lelia Hopper, Esquire
Director, Court Improvement Program
Office of the Executive Secretary
Supreme Court of Virginia
Administrative Office
Third Floor
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Richmond, Virginia 23219-2334
Telephone 804-786-6455

APPENDIX III

SERVICES PROVIDED BY THE COMMUNITY SERVICES BOARDS

- **Intake, screening, assessment and diagnosis services** consist of a process wherein a social history on consumers is recorded, an assessment tool is used to determine the consumer's primary diagnosis and a plan for treatment (subject to change) occurs.
- **Outpatient services** consist of substance abuse services that are delivered to consumers in sessions of less than three hours consecutively in a non-residential setting.
- **Case management services** are provided in an outpatient setting and consists of aiding individuals and their family members in determining those services which will most meet the individuals needs. Services include, but are not limited to, identifying and referring consumers to appropriate substance abuse services as well as linking them to appropriate support services, coordinating services with other providers, monitoring service delivery and advocating for the consumers.
- **Intensive outpatient services** generally occur in a concentrated manner over four to 12 weeks for consumers requiring intensive outpatient stabilization and may include multiple group therapy sessions during the week as well as individual and family therapy, consumer monitoring, and case management.
- **Partial hospitalization/day treatment services** include the major diagnostic, medical, psychiatric, psychosocial, and pre-vocational and educational treatment services designed for consumers who are addicted. These services are offered to consumers who require coordinated, intensive, comprehensive, and multidisciplinary treatment for those consumers needing more than outpatient services.
- **Methadone detox services** combine outpatient treatment with dispensing of methadone as a substitute narcotic drug in decreasing doses to enable a consumer to reach a drug free state in a period of time not to exceed 180 days.
- **Opiate replacement therapy** is any type of substance abuse treatment using methadone / LAAM for maintenance or detoxification in an inpatient or outpatient setting.
- **Highly intensive residential services** consist of overnight detoxification care in conjunction with intensive substance abuse treatment. This form of detoxification takes place in a specialized non-medical facility with physician services available when required and normally lasts up to seven days.
- **Intensive residential services** provide overnight care in conjunction with substance abuse treatment and may include rehabilitation services that normally last 30 to 90 days depending on consumer needs.

- **Supervised residential services** offer overnight substance abuse care in conjunction with some staff supervision.
- **Supportive residential services** are unstructured services that support consumers in their own housing arrangements. They normally do not involve overnight care.

