

**REPORT OF THE  
DEPARTMENT OF SOCIAL SERVICES**

**Second Report on Newborn Infants  
Dependent on Controlled Substances**

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



**HOUSE DOCUMENT NO. 6**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
2001**





# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF SOCIAL SERVICES

October 1, 2000

TO: The Honorable James S. Gilmore, III

and

The General Assembly of Virginia

The report contained herein is pursuant to Senate Bill 557 (1998) and House Bill 803 (1998). The 1998 General Assembly directed the Department of Social Services to submit three annual reports on this legislation. This is the second annual report. The first report is contained in House Document Number 9 (2000), Newborn Infants Dependent on Controlled Substance

This is a report on the implementation of SB 557 (1998) and HB 803 (1998). This legislation requires physicians to file reports with the local departments of social services and to notify the local community services boards when a newborn infant evidences exposure to non-prescription, controlled substances or signs of fetal alcohol syndrome.

The report cost the Commonwealth of Virginia an estimated \$11,100 to complete. This estimate includes the cost for five state agencies to compile and analyze the data and Department staff to write the report.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Sonia Rivero".

Sonia Rivero  
Commissioner



## PREFACE

Section 63.1-248.3 of the *Code of Virginia* was amended in 1998 to require physicians to file a report with the local departments of social services (local departments) whenever a newborn infant evidences exposure to non-prescription, controlled substances or signs of fetal alcohol syndrome. When abuse or neglect is found, the local departments' child protective services workers are required, by Section 63.1-248.6 of the *Code of Virginia*, to arrange for necessary protective and rehabilitative services for the child and his family.

Section 32.1-127 was amended in 1998 to require physicians to notify the local community services boards of the evidence of the nonprescribed substance exposure so that they may provide emergency services, prevention, outpatient treatment, and management of the discharge plan.

Section 16.1-241.3 was also amended in 1998 to allow courts to enter orders to protect the health and welfare of the child exposed to nonprescribed substances pending the results of necessary investigations.

The Virginia Department of Social Services was required to report to the Governor and the General Assembly on October 1, 1999 and annually for the following two years on the implementation of this legislative mandate. The first report is contained in House Document Number 9 (2000). This second year implementation report includes 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 of Virginia.



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## EXECUTIVE SUMMARY

Senate Bill 557 (1998) and House Bill 803 (1998) amended Section 63.1-248.3 of the *Code of Virginia* to require physicians to file a report with the local department of social services (local departments) when a newborn infant evidences exposure to non-prescription, controlled substances or signs of fetal alcohol syndrome. When abuse or neglect is found, the local departments' child protective services workers are required, by Section 63.1-248.6, to arrange for necessary protective and rehabilitative services for the child and his family.

This 1998 legislation further required the Department of Social Services (the Department) to report on the implementation of the legislation in each of the three years following enactment. This is the report on the second year of implementation. It includes information compiled in accordance with the requirements of the *Code of Virginia* and 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.

During the eleven-month time frame covered by this report, July 1, 1999 through June 6, 2000, local departments received 296 reports from medical personnel alleging that an infant had in-utero exposure to an illicit substance or alcohol. The Department reviewed 50 of these 296 reports. This case review showed that of the 50 cases reviewed:

- Cocaine was the most commonly used drug.
- Mothers were long-term drug users.
- Mothers had a history of involvement with child protective services programs and had other children in placement with relatives.
- Postnatal, environmental factors associated with maternal drug use such as poverty, neglect, unsafe home environments, family violence, and criminality present additional developmental risks for drug exposed infants.

The Department formed an interagency work group to assess implementation data. This work group plans the following activities for the third implementation year.

Activity 1 Continued data collection on the demographics of and services needed by substance-exposed infants and their mothers.

Activity 2 Enhanced state and local interagency collaborative services on behalf of postpartum substance abusing women and their children through planning among the Departments of Health; Social Services; and Mental Health, Mental Retardation and Substance Abuse Services.

Activity 3 Provision of training for local department child protective services workers on substance abuse issues and interdisciplinary training for professionals working with perinatal substance abuse.

Activity 4 Continued use of local interagency protocols and agreements among local departments of social services, community services boards, and hospitals to improve collaborative relationships and permit information sharing while protecting the individual's privacy in accordance with federal substance abuse and child protective services confidentiality regulations.

## **INTRODUCTION**

### **LEGISLATIVE MANDATE**

Senate Bill 557 (1998) and House Bill 803 (1998) as enacted by the General Assembly require the Department of Social Services to report annually for three years on the implementation of amendments to the *Code of Virginia* regarding newborn infants who evidence exposure to non-prescription, controlled substances or signs of fetal alcohol syndrome. (See **Appendix I.**) Specifically, states:

*“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.”*

### **TERMS USED IN THIS REPORT**

**The Department** The State Department of Social Services

**Local department** The department of social services of any county or city in Virginia. These departments have been designated by state law to receive and investigate child protective services complaints.

## **LEGISLATIVE HISTORY**

### **1991/1992 TASK FORCE**

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, the task force issued a report 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 recommended a continuum of intervention and treatment, which included:

- designing a program to provide early identification of substance-abusing women and their children;
- linking these women and children with appropriate services;
- collecting information about the demographics of this population; and
- collecting information on the need for and cost of services.

Also emphasized in the task force's report was that, for pregnant, substance-abusing women, the threat of punitive action could be a serious deterrent to their seeking prenatal care. Women who thought they would be immediately reported to child welfare agencies might choose not to obtain medical care during their pregnancies.

### 1998 LEGISLATIVE ACTION

The General Assembly addressed the task force's recommendations when it enacted Senate Bill 557 (1998) and House Bill 803 (1998). These bills modified Sections 63.1-248.3, 32.1-127, and 16.1-241.3 of the *Code of Virginia*. This legislation requires attending physicians to file reports with local departments and to notify community services boards whenever a new born infant shows evidence of exposure to non-prescription, controlled substances or signs of fetal alcohol syndrome.

When abuse or neglect is found:

- The local departments' child protective services workers arrange for necessary protective and rehabilitative services for the child and his family.
- The community services boards (CSBs) provide emergency services, prevention, outpatient treatment, and management of the mother's discharge plan.
- The court may enter any order deemed necessary to protect the health and welfare of the child pending final disposition of the child protective services investigation to allow local departments' child protective services to file a petition by within 21 days of a substance-exposed newborn's birth.

Together these amendments provide a mechanism for follow-up, early intervention, and coordinated treatment planning among health care providers, substance abuse services, and child protective services workers on behalf of postpartum substance abusing mothers and their substance-exposed newborns.

The Department convened a work group to address implementation issues. The work group was made up of representatives from the Departments of Health; Mental Health, Mental Retardation, and Substance Abuse Services; the Board of Medicine; and the Office of the Executive Secretary of the Supreme Court of Virginia. (See **Appendix II** for a list of the work group members.)

The charge of this work group was to collect data and assess second year implementation of the law. The information contained in this report came from the work of this group. The work group identified the need to:

- improve data collection on substance-exposed infants;
- educate physicians on recognizing substance abuse in pregnant women and the developmental consequences;
- train local department child protective services workers on substance abuse identification and child safety; and
- increase interdisciplinary collaborative services and coordination among hospitals, community services boards (CSBs), and local departments on behalf of substance abusing women and their children.

## **SECOND YEAR IMPLEMENTATION**

### DEPARTMENT OF SOCIAL SERVICES

The Department promulgated regulations to support and provide direction to local departments and other affected parties in implementing the legislation and protecting infants at risk of abuse or neglect due to perinatal substance exposure. The regulations became effective March 29, 2000.

The Department also continued a training contract it negotiated during the first year of implementation. The contract is with the Virginia Institute for Social Services Training Activities (VISSTA) at Virginia Commonwealth University to develop competency-based courses for local social workers. Courses cover identification, assessment, and treatment of substance abuse within families. Three courses are in various stages of development. In January 2000 a generic, one-day course on substance abuse was offered statewide. Two other courses are being piloted and are expected to be available next year. A one-day course called "Strategies for Change with Substance Abusing Caregivers" that focuses on the effects of alcohol and drugs on parenting will be offered by January 2001. A course called "Substance Affected/Involved Children" will be offered in the spring 2001.

### BOARD OF MEDICINE

The Board of Medicine posted on its website information about the mandated reporting requirement for substance-exposed newborns. The Board of Medicine also distributed for publication an article on the requirement to report in-utero drug exposure to professional medical societies. It was printed in the following publications:

- Medical Society of Virginia's *Virginia Medical News*, August 1999;
- Virginia Academy of Family Physicians' *Virginia Family Physician*, Summer 1999; and
- *Virginia Section Review*, fall 1999. (A joint publication of the Virginia Obstetrical and Gynecological Society and the Virginia Section of the American College of Obstetricians and Gynecologists).

### DEPARTMENT OF MENTAL HEALTH, MENTAL RETARDATION, AND SUBSTANCE ABUSE SERVICES

The Department of Mental Health, Mental Retardation, and Substance Abuse Services (DMHMRSAS) in collaboration with the Division of Addiction

Medicine, Virginia Commonwealth University School of Medicine and the Center for Substance Abuse Treatment sponsored two new training initiatives on perinatal substance abuse:

1. Telepsychiatry presentations on perinatal addiction were provided to 12 community services boards and allied professionals in southwest Virginia.
2. A statewide conference with 18 workshops on perinatal addiction was conducted for 180 professionals from various disciplines.

DMHMRSAS also funded a three-year initiative through the Rappahannock Community Services Board to develop training sessions, which will be available statewide, related to the Fetal Alcohol Syndrome Initiative.

DMHMRSAS developed new treatment services for pregnant, substance abusing women, including continued funding for five sites providing intensive case management services to pregnant, substance abusing women. A sixth site in Petersburg was added in 1999. (Sites in Northern and Southwest Virginia will be added in 2001.) FY 2000 funding was designated to develop residential substance abuse treatment services for pregnant women in three sites, one each in the Southeast, Southwest, and Richmond areas. Two of these, the Southeastern Family Project in Newport News and the Richmond Behavioral Health Authority, are collaborative service initiatives between CSBs.

The *Commonwealth Partnership for Women and Children Affected by Substance Use* has worked diligently to promote interagency and intrasystem linkages, education and training opportunities and to identify issues and needs related to this population. This is an interdisciplinary consortium of service providers from throughout the Commonwealth. Its mission is to develop and improve prevention and treatment services for women and children affected by substance use or abuse. The partnership serves in an advisory capacity to DMHMRSAS.

There are 40 community services boards (CSBs) that provide substance abuse emergency services, prevention, and outpatient treatment services. These CSBs have cultivated relationships with area hospitals and local departments. This included 25 presentations on substance abuse and its affects on families to local departments and 29 area hospitals. Thirty-four CSBs collaborated with community hospitals to develop referral protocols for postpartum, substance abusing women and 16 CSBs entered into agreements with local hospitals. At least four of these agreements were cooperative service initiatives among CSBs, hospitals, and local departments.

## **SUBSTANCE ABUSE REPORTING and PROTECTIVE AND REHABILITATIVE SERVICES DATA**

As directed by the 1998 General Assembly, 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 each contributed information it had compiled on suspected addiction of newborn infants.

### REPORTS TO LOCAL DEPARTMENT OF SOCIAL SERVICES CHILD PROTECTIVE SERVICES PROGRAM

Forty-four local departments received 296 reports from physicians, nurses, and hospital social workers about substance-exposed infants. (**Appendix III** shows the number of reports by locality.) The reports were screened to determine if they met the definition of abuse and neglect as defined in the *Code of Virginia*. There were 244 statewide that met the definition of abuse and neglect as defined and were investigated by local departments. Of these 244, there were:

- 41 investigations with founded dispositions;
- 184 investigations with unfounded dispositions;
- six investigations pending as of June 6, 2000;
- three investigations with no dispositions because they were conducted by local departments piloting the Child Protective Services Multiple Response System where a disposition is not required;
- two invalidated reports because the mother was in treatment or the drugs found in the infant were not a result of non-prescription, substance abuse by the mother;
- eight uninvestigated reports due to the missing status of the child or family; and
- 47 reports requiring additional services from the local department.

### SAMPLE REVIEW OF REPORTS BY THE DEPARTMENT

In order to learn more about the 296 reported cases, the Department reviewed 50 randomly selected reports (17 percent). Of the 50 reports reviewed



by the Department, 38 met the definition of abuse and neglect as defined by the *Code of Virginia* and were investigated by the local departments. Of these 50 reports, there were:

- 11 investigations with founded dispositions;
- 18 investigations with unfounded dispositions;
- six investigations pending;
- three investigations with no dispositions because they were conducted by local departments piloting the Child Protective Services Multiple Response System where the disposition is not required; and
- 12 invalidated reports because the mother sought substance abuse treatment during pregnancy, the child was not in the mother's care, there were data entry errors, or the report did not meet the criteria of abuse and neglect as defined by the *Code of Virginia*.

Of the 50-case sample, the hospital reports found positive hospital drug test results for the mother or infant for the following substances:

<b>Substance</b>	<b>Infants</b>	<b>Mothers</b>
<b>Cocaine</b>	21	20
<b>Opiates</b>	6	1
<b>Poly-drugs</b>	4	7
<b>Marijuana</b>	2	3
<b>Heroin</b>	3	0
<b>Alcohol</b>	1	2
<b>Amphetamines</b>	0	2

Of the 50-case sample, local departments child protective services staff:

- initiated 17 protective court actions
- initiated 13 emergency removal orders
- filed 4 preliminary protective orders
- made 12 subsequent foster care placements
- made 6 subsequent placements with relatives.

Of the 50-case sample, perinatal substance abusing mothers tended to be long-term drug users, with an average age of 31 years.

- Thirteen had prior involvement with local departments' child protective services programs.

- Thirteen had other children in placement due to maternal substance abuse; 12 were in the care of relatives and one was in foster care.
- Three had other children who were also born substance-exposed.

Post-natal environmental factors associated with illicit drug use such as poverty, neglect, unsafe home environments, family violence, and criminality presented additional developmental risks for drug exposed infants.

**REFERRALS TO COMMUNITY SERVICES BOARDS**

DMHMRSAS surveyed the 40 CSBs to determine how many postpartum substance-abusing women were referred for services. The survey revealed that 260 women were referred during the period July 1, 1999 to March 31, 2000. Drug tests were positive for the following substances:

<b>Substance</b>	<b>Infants</b>	<b>Mothers</b>
<b>Cocaine</b>	106	133
<b>Heroin/Prescription Opiates</b>	23	29
<b>Marijuana</b>	29	63
<b>Alcohol</b>	3	13
<b>Other drugs</b>	0	4

Community services boards provided the following services to the mothers referred to them.

- 102.25 units\* of intake, screening, and assessment services
- 748 units\* of case management services
- 274.5 units\* of outpatient services
- 106.5 units\*\* of intensive outpatient services
- 936.75 units\*\* of partial hospitalization/day treatment services
- 1 day of methadone detoxification services
- 10 days of opiate replacement services
- 232 days of intensive residential treatment services
- 5 days of highly intensive residential treatment services

*\* 1 unit equals 1-3 hours of services*

*\*\* 1 unit equals 2+ hours of services*

The two primary difficulties community services boards (CSBs) had in working with these mothers were locating them and engaging them in treatment. Despite multiple efforts by the CSBs to locate them and provide outreach, less than half of the mothers referred obtained a substance abuse assessment.

The survey indicated that close service coordination and follow-up between the CSBs and local departments are essential to provide the needed support and leverage to bring these mothers in for treatment. Also, client-signed release of information forms that comply with federal substance abuse and child protective services confidentiality regulations are needed.

#### COURT PETITIONS FILED WITH THE JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS

To determine the number and disposition of petitions filed with juvenile and domestic relations district (JDRD) courts, the Office of the Executive Secretary, Supreme Court of Virginia conducted an analysis of petitions filed with JDRD courts. The analysis covered the period of July 1, 1999 through March 31, 2000 and included those petitions entered into the Court Automated Information System (CAIS).

Their analysis found that no petitions were filed specifically pursuant to Section 16.1-241.3. Numerous child protection petitions were filed in the juvenile courts under other sections of the *Code of Virginia*, such as 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 shows the statutory authority for filing a petition, but it does not show why a petition is filed.

The fact that CAIS showed no protective orders entered due to petitions filed pursuant to Section 16.1-241.3 may mean that local departments or their attorneys are filing for protection under other more familiar provisions of the law. This essentially achieves the same results. As the information reported by the local departments show, petitions for emergency removal orders and preliminary protective orders for substance-exposed newborns are in fact being filed with the courts.

#### DEPARTMENT OF HEALTH DATA COLLECTION

State law requires the Department of Health (VDH) to gather general statistical data on the birth certificate application about the mother's tobacco, drug, and alcohol use. The mother gives this information voluntarily. The information given by the mother is used to gather aggregate statistical data only. It is not used to track individual mothers or infants.

From the information given voluntarily by the mother on the birth certificate application, the Department of Health reported the following substance use for the period July 1999 to March 2000.

Total births	69,662
Mothers tobacco use	5,990
Mothers reported drug use	454
Mothers reported alcohol use	429

While there is a large difference between the number of mothers who reported substance use and the number of reports from physicians, the Department of Health cautions against drawing conclusions or making recommendations based on these statistics. Not only is the information provided voluntarily by the mother, but also the birth certificate application does not ask the mother to state at what point during the pregnancy she used the substance. The substance may have been used in the early part of the pregnancy, but was not being used at the time of the infant's birth.

The Department of Health data does indicate the need to train health care providers on screening for, identifying, and managing of perinatal substance abuse to ensure equitable application of state law and consistency in medical drug testing decisions, this training needs to be based upon objective clinical indicators and protocols.

### **PLANNED THIRD YEAR ACTIVITIES**

Amendments to Sections 63.1-248.3 and 32.1-127 of the *Code of Virginia* impact multiple systems including health care, social services, and substance abuse treatment services. The amendments provide a legislative framework for interagency services follow-up, early intervention, and coordinated treatment planning on behalf of postpartum substance abusing women and their substance-exposed newborns. To continue to meet the requirements, the interagency work group plans the following activities for the third year implementation.

**Activity 1: Continued data collection on the demographic and service needs of substance-exposed infants and their mothers.**

Effective October 1, 2000, the Department of Mental Health, Mental Retardation and Substance Abuse Services will implement a new data collection system, the POMS Project. When combined with the Addiction Severity Index Assessment it will enable community services boards to obtain more accurate information regarding the number of substance abusing women who are pregnant when they apply for treatment. The Department has also implemented a child abuse and neglect information system designed to improve data collection. Additional local training for local department staff, policy clarification, and data

system enhancement specific to substance- exposed infants are planned to enhance data accuracy and inclusiveness.

**Activity 2: Enhanced state and local, interagency collaborative services planning among the Department; the Department of Health; and the Department of Mental Health, Mental Retardation, and Substance Abuse Services on behalf of postpartum, substance abusing women and their children.**

In addition to addressing the health care and treatment needs of postpartum, substance abusing women and their infants, post-natal, environmental factors associated with illicit drug use also need to be addressed due to its correlation with poor child outcomes. These factors present additional risks above and beyond those associated with prenatal substance abuse and include poverty, neglect, unsafe home environments, family violence, maternal depression, and criminality.

The Department will coordinate state level, substance abuse service initiatives for recipients of Temporary Assistance for Needy Families (TANF) who need services for drug exposed children and their families.

The Department will make the data and activities addressed in this report available to existing state level, interagency substance abuse and perinatal consortiums for consideration. These entities include the *Commonwealth Partnership for Women and Children Affected By Substance Use*, which acts in an advisory capacity to DMHMRSAS, the seven regional Perinatal Coordinating Councils, administered by the Department of Health, and other entities.

**Activity 3: Provide specialized training for local department child protective services workers and interdisciplinary training for professionals working with perinatal substance abuse.**

The Department, through a contract with the Virginia Institute for Social Services Training Activities at Virginia Commonwealth University, will provide specialized training for local department staff on identification, intervention, and child safety assessment of perinatal substance abuse.

The Department of Health, in collaboration with the Department and the Department of Mental Health, Mental Retardation and Substance Abuse Services, has committed to address perinatal substance abuse in the training plans for the seven regional Perinatal Coordinating Councils in FY 2001. Training will be expanded to include nurses, local department staff, and other practitioners working with pregnant women.

The Department of Mental Health, Mental Retardation and Substance Abuse Services will continue to sponsor interdisciplinary training initiatives on perinatal addiction.

**Activity 4: Use of local interagency protocols/agreements among local departments, community services boards, and hospitals to improve collaborative relationships and permit information sharing while protecting a client's privacy rights in accordance with federal substance abuse and child protective services confidentiality regulations.**

Legal uncertainties concerning the appropriate use of Qualified Service Organization Agreements and client specific information sharing among agencies remain. The Department of Mental Health, Mental Retardation and Substance Abuse Services has requested and been granted technical assistance from the federal Center for Substance Abuse Treatment in the development of interagency agreements that meet federal confidentiality requirements as well as identifying training needs related to their implementation.

The Department of Mental Health, Mental Retardation and Substance Abuse Services, in collaboration with the Department and the Department of Health, will provide interagency protocols templates used by the Project Link sites to promote dialogue and unified treatment planning and services among agencies on behalf of substance abusing women and their children.

# APPENDIX 1

## 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.

## 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.

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.

## **APPENDIX II**

### **WORK GROUP FOR INTERIM REPORT ON SUBSTANCE EXPOSED NEWBORNS**

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### APPENDIX III

#### CHILD PROTECTIVE SERVICES

##### Allegation Records of Substance Exposed Newborns by Locality of Assignment\* July 1, 1999 – June 6, 2000

Alexandria	4	Mecklenburg	1
Arlington	13	Montgomery	1
Caroline	1	Newport News	26
Carroll	3	Norfolk	36
Charlottesville	2	Orange	1
Chesapeake	9	Page	1
Chesterfield	7	Petersburg	5
Danville	1	Pittsylvania	1
Fairfax County	10	Portsmouth	11
Fauquier	1	Prince William	3
Frederick	3	Pulaski	4
Fredericksburg	3	Richmond City	64
Gloucester	1	Roanoke City	10
Goochland	1	Roanoke County	1
Hampton	10	Rockingham	4
Henrico	12	Spotsylvania	4
Hopewell	7	Stafford	2
Isle Of Wight	2	Suffolk	6
James City	2	Tazewell	1
Lynchburg	4	Virginia Beach	12
Manassas	1	Waynesboro	2
Martinsville	2	Westmoreland	1

**TOTAL 296**

\*Virginia Department of Social Services, Child Protective Services, Online Automated Services Information System (OASIS)



