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SENATE BILL NO. 417

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 2.2-3802, 51.5-148, 63.2-1605, and 63.2-1606 of the Code of Virginia and to amend the Code of Virginia by adding in Article 5 of Chapter 14 of Title 51.5 sections numbered 51.5-148.1 and 51.5-148.2 and by adding sections numbered 63.2-1605.1, 63.2-1605.2, and 63.2-1605.3, relating to adult protective services; central registry.

Patron—Head

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3802, 51.5-148, 63.2-1605, and 63.2-1606 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 5 of Chapter 14 of Title 51.5 sections numbered 51.5-148.1 and 51.5-148.2 and by adding sections numbered 63.2-1605.1, 63.2-1605.2, and 63.2-1605.3 as follows:

§ 2.2-3802. Systems to which chapter inapplicable.

The provisions of this chapter shall not apply to personal information systems:

1. Maintained by any court of the Commonwealth;
2. Which may exist in publications of general circulation;
3. Contained in the Criminal Justice Information System as defined in §§ 9.1-126 through 9.1-137 or in the Sex Offender and Crimes Against Minors Registry maintained by the Department of State Police pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1, except to the extent that information is required to be posted on the Internet pursuant to § 9.1-913;
4. Contained in the Virginia Juvenile Justice Information System as defined in §§ 16.1-222 through 16.1-225;
5. Maintained by agencies concerning persons required by law to be licensed in the Commonwealth to engage in the practice of any profession, in which case the names and addresses of persons applying for or possessing the license may be disseminated upon written request to a person engaged in the profession or business of offering professional educational materials or courses for the sole purpose of providing the licensees or applicants for licenses with informational materials relating solely to available professional educational materials or courses, provided the disseminating agency is reasonably assured that the use of the information will be so limited;
6. Maintained by the Parole Board, the Crime Commission, the Judicial Inquiry and Review Commission, the Virginia Racing Commission, the Virginia Criminal Sentencing Commission, and the Virginia Alcoholic Beverage Control Authority;
7. Maintained by any of the following and that deal with investigations and intelligence gathering related to criminal activity:
 - a. The Department of State Police;
 - b. The police department of the Chesapeake Bay Bridge and Tunnel Commission;
 - c. Police departments of cities, counties, and towns;
 - d. Sheriff's departments of counties and cities;
 - e. Campus police departments of public institutions of higher education as established by Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1; and
 - f. The Division of Capitol Police.
8. Maintained by local departments of social services regarding alleged cases of child abuse or neglect while such cases are also subject to an ongoing criminal prosecution;
9. Maintained by the Virginia Port Authority as provided in § 62.1-132.4 or 62.1-134.1;
10. Maintained by the Virginia Tourism Authority in connection with or as a result of the promotion of travel or tourism in the Commonwealth, in which case names and addresses of persons requesting information on those subjects may be disseminated upon written request to a person engaged in the business of providing travel services or distributing travel information, provided the Virginia Tourism Authority is reasonably assured that the use of the information will be so limited;
11. Maintained by the Division of Consolidated Laboratory Services of the Department of General Services and the Department of Forensic Science, which deal with scientific investigations relating to criminal activity or suspected criminal activity, except to the extent that § 9.1-1104 may apply;
12. Maintained by the Department of Corrections or the Office of the State Inspector General that deal with investigations and intelligence gathering by persons acting under the provisions of Chapter 3.2 (§ 2.2-

59 307 et seq.);

60 13. Maintained by (i) the Office of the State Inspector General or internal audit departments of state
61 agencies or institutions that deal with communications and investigations relating to the Fraud, Waste and
62 Abuse Hotline or (ii) an auditor appointed by the local governing body of any county, city, or town or a
63 school board that deals with local investigations required by § 15.2-2511.2;

64 14. Maintained by the Department of Social Services or any local department of social services relating to
65 public assistance fraud investigations;

66 15. Maintained by the Department of Social Services related to child welfare or public assistance
67 programs when requests for personal information are made to the Department of Social Services. Requests
68 for information from these systems shall be made to the appropriate local department of social services that is
69 the custodian of that record. Notwithstanding the language in this section, an individual shall not be
70 prohibited from obtaining information from the central registry in accordance with the provisions of § 63.2-
71 1515; and

72 16. Maintained by the Department for Aging and Rehabilitative Services related to adult services, adult
73 protective services, or auxiliary grants when requests for personal information are made to the Department for
74 Aging and Rehabilitative Services. Requests for information from ~~these~~ *such* systems shall be made to the
75 appropriate local department of social services that is the custodian of that record. *However, notwithstanding*
76 *the provisions of this subdivision, persons shall be permitted to obtain information from the central registry*
77 *in accordance with § 51.5-148.2.*

78 **§ 51.5-148. Establishment of Adult Protective Services Unit; powers and duties.**

79 A. The Department shall have responsibility for the planning and oversight of adult protective services in
80 the Commonwealth. The Commissioner shall establish within the Department for Aging and Rehabilitative
81 Services an Adult Protective Services Unit ~~which~~ *that* shall oversee the planning, administration, and
82 implementation of adult protective services in the Commonwealth. Adult protective services shall be
83 provided to the public by local departments of social services pursuant to Chapter 16 (§ 63.2-1600 et seq.) of
84 Title 63.2 in cooperation with the Department and subject to the regulations and oversight of the
85 Commissioner.

86 B. The Adult Protective Services Unit shall have the following powers and duties:

87 1. To work together with local departments of social services to support, strengthen, and evaluate adult
88 protective services programs provided by such local departments;

89 2. To assist local departments of social services in developing and implementing programs to respond to
90 and prevent adult abuse, neglect, or exploitation;

91 3. To prepare, disseminate, and present educational programs and materials on adult abuse, neglect, and
92 exploitation to mandated reporters and the public;

93 4. To establish minimum standards of training and provide educational opportunities to qualify workers in
94 the field of adult protective services to determine whether reports of adult abuse, neglect, or exploitation are
95 substantiated. The Department shall establish and provide a uniform training program for adult protective
96 services workers in the Commonwealth. All adult protective services workers shall complete such training
97 within one year from the date of implementation of the training program or within the first year of their
98 employment;

99 5. To develop policies and procedures to guide the work of persons in the field of adult protective
100 services;

101 6. To prepare and disseminate statistical information on adult protective services in Virginia;

102 7. To operate an adult protective services 24-hour toll-free hotline and provide training and technical
103 assistance to the hotline staff;

104 8. To provide coordination among the adult protective services program and other state agencies; ~~and~~

105 9. To work collaboratively with other agencies in the Commonwealth to facilitate the reporting and
106 investigation of suspected adult abuse, neglect, or exploitation; *and*

107 10. *To maintain an adult abuse, neglect, and exploitation information system and a central registry of*
108 *substantiated reports pursuant to § 51.5-148.1.*

109 **§ 51.5-148.1. Central registry; retention of records; notice; reports made in bad faith or with malicious**
110 **intent.**

111 A. *The Department shall establish and maintain an adult abuse, neglect, and exploitation information*
112 *system and a central registry of substantiated reports. Identifying information about (i) an adult who the*
113 *local department has determined is self-neglecting or (ii) a person who neglected an adult without intent*
114 *shall not be entered in the central registry. Subject to the provisions of § 51.5-148.2, the operation of the*
115 *central registry and the information contained in such registry shall be prescribed by regulations*
116 *promulgated by the Commissioner.*

117 B. *The Department shall maintain all reports regarding investigations in which a report was deemed*
118 *unfounded and all reports determined to be not valid in a record that is separate from the central registry.*
119 *Such information shall be accessible only by the Department and local departments for adult protective*

120 services and by the person alleged to have committed abuse, neglect, or exploitation. In no event shall the
 121 mere existence of a prior report be used to determine that a subsequent report is substantiated.

122 The record of unfounded investigations and reports determined to be not valid shall be purged one year
 123 after the date of the report if there are no subsequent reports regarding the same victim or perpetrator within
 124 such one-year period. The local department shall retain such records for an additional period of up to two
 125 years if requested in writing by the person who was alleged to have committed abuse, neglect, or exploitation
 126 in the report. However, upon presentation of a certified copy of a court order stating that the report was
 127 found to have been made in bad faith or with malicious intent pursuant to subsection D, the records
 128 regarding the person alleged to have committed abuse, neglect, or exploitation in such report shall be purged
 129 immediately and written notice of such purging shall be provided to the alleged perpetrator. The
 130 Commissioner may promulgate regulations regarding (i) the purging of information from the central registry
 131 after a certain period of time and (ii) a process through which persons may file a petition with the
 132 Department to be removed from the registry upon satisfaction of certain criteria.

133 C. At the time the local department notifies a person who is alleged to have committed abuse, neglect, or
 134 exploitation in a report made pursuant to this article that the investigation was deemed unfounded, the local
 135 department shall also provide notice to such person regarding the length of time the record will be retained
 136 and of the availability of the procedures set forth in subsection D. Upon request, the local department shall
 137 inform such person whether the report was made anonymously; however, the identity of a reporter shall not
 138 be disclosed unless ordered by a court pursuant to subsection D.

139 D. If any person who was alleged to have committed abuse, neglect, or exploitation in a report that was
 140 determined to be unfounded believes that such report was made in bad faith or with malicious intent, such
 141 person may petition the circuit court in the jurisdiction in which the report was made for the release to such
 142 person of the investigation records. The petition shall specifically set forth the reasons the person believes
 143 that such report was made in bad faith or with malicious intent. Upon the filing of such petition, the circuit
 144 court shall request and the local department shall provide to the circuit court its records of the investigation
 145 for in camera review. The petitioner shall be entitled to present evidence to support his petition. If the circuit
 146 court determines that there is a reasonable question of fact as to whether the report was made in bad faith or
 147 with malicious intent and that disclosure of the identity of the reporter would not be likely to endanger the life
 148 or safety of the reporter, it shall provide to the petitioner a copy of the report and, if an investigation was
 149 conducted, the records of the investigation. The original records shall be subject to discovery in any
 150 subsequent civil action regarding the making of a report in bad faith or with malicious intent.

151 **§ 51.5-148.2. Central registry; disclosure of information.**

152 The Department shall maintain the central registry of substantiated reports of adult abuse, neglect, and
 153 exploitation established pursuant to § 51.5-148.1 on its website. Such central registry shall be searchable by
 154 members of the public, provided that the person initiating the search provides the first and last name and the
 155 last four digits of the social security number or birth date of the person who is the subject of the search.

156 **§ 63.2-1605. Protective services for adults by local departments.**

157 A. Each local board, to the extent that federal or state matching funds are made available to each locality,
 158 shall provide, pursuant to regulations and subject to supervision of the Commissioner for Aging and
 159 Rehabilitative Services, adult protective services for adults who are found to be abused, neglected, or
 160 exploited and who meet one of the following criteria: (i) the adult is 60 years of age or older or (ii) the adult
 161 is 18 years of age or older and is incapacitated. The requirement to provide such services shall not limit the
 162 right of any individual to refuse to accept any of the services so offered, except as provided in § 63.2-1608.

163 B. Upon receipt of the report pursuant to § 63.2-1606, the local department shall determine the validity of
 164 such report and, if the local department deems the report valid, shall initiate an investigation pursuant to §
 165 63.2-1605.1 within 24 hours of the time the report is received in the local department. Local departments
 166 shall consider valid any report meeting all of the following criteria: (i) the subject of the report is an adult as
 167 defined in this article, (ii) the report concerns a specific adult and there is enough information to locate the
 168 adult, and (iii) the report describes the circumstances of the alleged abuse, neglect, or exploitation.

169 C. The local department shall immediately refer the matter and all relevant documentation to the local
 170 law-enforcement agency where the adult resides or where the alleged abuse, neglect, or exploitation took
 171 place or, if these places are unknown, where the alleged abuse, neglect, or exploitation was discovered for
 172 investigation, upon receipt of an initial report pursuant to § 63.2-1606 involving any of the following or upon
 173 determining, during the course of an investigation pursuant to this article, the occurrence of any of the
 174 following:

- 175 1. Sexual abuse as defined in § 18.2-67.10;
- 176 2. Death that is believed to be the result of abuse or neglect;
- 177 3. Serious bodily injury or disease as defined in § 18.2-369 that is believed to be the result of abuse or
 178 neglect;
- 179 4. Suspected financial exploitation of an adult; or
- 180 5. Any other criminal activity involving abuse or neglect that places the adult in imminent danger of death

181 or serious bodily harm.

182 Local law-enforcement agencies shall provide local departments with a preferred point of contact for
183 referrals.

184 D. The local department shall refer any appropriate matter and all relevant documentation, to the
185 appropriate licensing, regulatory, or legal authority for administrative action or criminal investigation.

186 E. If a local department is denied access to an adult for whom there is reason to suspect the need for adult
187 protective services, then the local department may petition the circuit court for an order allowing access or
188 entry or both. Upon a showing of good cause supported by an affidavit or testimony in person, the court may
189 enter an order permitting such access or entry.

190 F. In any case of suspected adult abuse, neglect, or exploitation, local departments, with the informed
191 consent of the adult or his legal representative, shall take or cause to be taken photographs, video recordings,
192 or appropriate medical imaging of the adult and his environment as long as such measures are relevant to the
193 investigation and do not conflict with § 18.2-386.1. However, if the adult is determined to be incapable of
194 making an informed decision and of giving informed consent and either has no legal representative or the
195 legal representative is the suspected perpetrator of the adult abuse, neglect, or exploitation, consent may be
196 given by an agent appointed under an advance medical directive or medical power of attorney, or by a person
197 authorized, pursuant to § 54.1-2986. In the event no agent or authorized representative is immediately
198 available, then consent shall be deemed to be given.

199 G. Local departments shall foster the development, implementation, and coordination of adult protective
200 services to prevent adult abuse, neglect, and exploitation.

201 H. Local departments shall not investigate allegations of abuse, neglect, or exploitation of adults
202 incarcerated in state correctional facilities.

203 I. The report and evidence received by the local department and any written findings, evaluations, records,
204 and recommended actions shall be confidential and shall be exempt from disclosure requirements of the
205 Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except that such information may be disclosed to
206 persons having a legitimate interest in the matter in accordance with §§ 63.2-102 and 63.2-104 ~~and~~, pursuant
207 to official interagency agreements or memoranda of understanding between state agencies, *or as otherwise*
208 *authorized under the provisions of § 63.2-1605.2.*

209 J. ~~All~~ *Except as provided in § 63.2-1605.3*, written findings and actions of the local department or its
210 director regarding adult protective services investigations are final and shall not be (i) appealable to the
211 Commissioner for Aging and Rehabilitative Services or (ii) considered a final agency action for purposes of
212 judicial review pursuant to the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).

213 K. Each local department may foster, when practicable, the creation, maintenance, and coordination of
214 community-based multidisciplinary teams that shall include, where possible, members of the medical, mental
215 health, social work, nursing, education, legal, and law-enforcement professions. Such teams shall:

216 1. Assist the local department in identifying abused, neglected, and exploited adults as defined in § 63.2-
217 1603.

218 2. Coordinate medical, social, and legal services for abused, neglected, and exploited adults and their
219 families.

220 3. Develop innovative programs for detection and prevention of the abuse, neglect, and exploitation of
221 adults.

222 4. Promote community awareness and action to address the abuse, neglect, and exploitation of adults.

223 5. Disseminate information to the general public regarding the problem of abuse, neglect, and exploitation
224 of adults, strategies and methods for preventing such abuse, neglect, and exploitation, and treatment options
225 for abused, neglected, and exploited adults.

226 Such multidisciplinary teams may share information among the parties in the performance of their duties
227 but shall be bound by confidentiality and shall execute a sworn statement to honor the confidentiality of the
228 information they share. A violation of this subsection is punishable as a Class 3 misdemeanor. All such
229 information and records shall be used by the team only in the exercise of its proper function and shall not be
230 disclosed. No person who participated in the team and no member of the team shall be required to make any
231 statement as to what transpired during a meeting or what information was collected during the meeting. Upon
232 the conclusion of a meeting, all information and records concerning the adult shall be returned to the
233 originating agency or destroyed. Any information exchanged in accordance with the multidisciplinary review
234 team shall not be considered to be a violation of any of the provisions of § 63.2-102, 63.2-104, or 63.2-105.

235 **§ 63.2-1605.1. Investigations by local departments.**

236 A. *Local departments conducting investigations pursuant to subsection B of § 63.2-1605 shall collect*
237 *information necessary to determine:*

238 1. *The immediate safety needs of the adult alleged to be the victim of abuse, neglect, or exploitation;*

239 2. *The protective, rehabilitative, or other service needs of the adult alleged to be the victim of abuse,*
240 *neglect, or exploitation;*

241 3. *Risk of future harm to the adult alleged to be the victim of abuse, neglect, or exploitation;*

242 4. *Alternative plans for the safety of the adult alleged to be the victim of abuse, neglect, or exploitation if*

243 protective, rehabilitative, or other services are needed and the adult is unable or unwilling to participate in
244 such services;

245 5. Whether abuse, neglect, or exploitation has occurred;

246 6. If abuse, neglect, or exploitation has occurred, who abused, neglected, or exploited the adult; and

247 7. Whether the report is substantiated or unfounded.

248 B. If the local department responds to a report of adult abuse, neglect, or exploitation by conducting an
249 investigation, the local department shall:

250 1. Document the findings and results of the investigation and enter such information into the adult abuse,
251 neglect, and exploitation information system maintained by the Department for Aging and Rehabilitative
252 Services;

253 2. Consult with the adult alleged to be the victim of abuse, neglect, or exploitation to arrange for
254 necessary protective, rehabilitative, and other services to be provided to such adult;

255 3. If the adult alleged to be the victim of abuse, neglect, or exploitation lacks the capacity to consent to
256 receive adult protective services, petition the court for services deemed necessary pursuant to § 63.2-1608;

257 4. Determine within 45 days if the report of abuse, neglect, or exploitation is substantiated or unfounded,
258 enter such disposition in the adult abuse, neglect, and exploitation information system maintained by the
259 Department for Aging and Rehabilitative Services, and transmit a report to such effect to the alleged
260 perpetrator of adult abuse, neglect, or exploitation. Upon written justification by the local department, the
261 time for such determination may be extended not to exceed a total of 60 days or, in the event that the
262 investigation is being conducted in cooperation with a law-enforcement agency and both parties agree that
263 circumstances so warrant, as stated in the written justification, the time for such determination may be
264 extended not to exceed 90 days. If through the exercise of reasonable diligence the local department is unable
265 to find the adult who is the alleged victim of abuse, neglect, or exploitation, the time during which such adult
266 cannot be found shall not be computed as part of the total time period allowed for the investigation and
267 determination, and documentation of such reasonable diligence shall be placed in the record. In cases
268 involving the death or alleged sexual abuse or financial exploitation of an adult, the time during which
269 records necessary for the investigation of the report but not created by or under the control of the local
270 department, including autopsy, medical, forensic, or financial records or reports, are not available to the
271 local department due to circumstances beyond the local department's control shall not be computed as part of
272 the total time period allowed for the investigation and determination, and documentation of the
273 circumstances that resulted in the delay shall be placed in the record; and

274 5. If the investigation is unfounded, provide notice of such investigation disposition to the reporter, the
275 alleged victim, and his guardian, as applicable, and the person alleged to have committed adult abuse,
276 neglect, or exploitation.

277 Any information exchanged for the purposes of this subsection shall not be considered a violation of §
278 51.5-122, 63.2-102, or 63.2-104.

279 **§ 63.2-1605.2. Cooperation by state entities.**

280 All law-enforcement departments and other state and local departments, agencies, authorities, and
281 institutions shall cooperate with each adult protective services worker of a local department in the detection,
282 investigation, and prevention of abuse, neglect, or exploitation.

283 **§ 63.2-1605.3. Appeals of certain actions of local departments.**

284 A. A person who is found to have committed abuse, neglect, or exploitation pursuant to this article may,
285 within 30 days of being notified of that determination, request the local department to amend its
286 determination and related records. Upon written request, the local department shall provide the appellant all
287 information used in making its determination. Disclosure of the reporter's name, information that may
288 endanger the well-being of the victim or any other person, or information prohibited from disclosure by state
289 or federal law or regulation shall not be released.

290 The local department shall hold an informal conference or consultation in which the appellant, who may
291 be represented by counsel, and representatives of the local department shall be entitled to informally present
292 testimony of witnesses, documents, factual data, arguments, or other submissions of proof to the local
293 department. With the exception of the local director, no person whose regular duties include substantial
294 involvement with adult abuse, neglect, or exploitation cases shall preside over the informal conference.

295 If the local department refuses the request for amendment or fails to act within 45 days after receiving
296 such request, the appellant may, within 30 days thereafter, petition the Commissioner for Aging and
297 Rehabilitative Services for an administrative review hearing. The appellant may obtain an extension of the
298 45-day period in which the local department must act by submitting a written request for such extension to
299 the Commissioner for Aging and Rehabilitative Services. The extension period, which shall not exceed 60
300 days, shall begin at the end of the original 45-day period in which the local department must act. In the event
301 an extension is granted, the 30-day period in which the appellant is permitted to request an administrative
302 review hearing by the Commissioner for Aging and Rehabilitative Services shall begin on the termination of
303 the extension period. Upon receiving a timely request for an administrative review hearing, the

304 Commissioner for Aging and Rehabilitative Services shall grant a hearing to determine whether it appears,
305 by a preponderance of the evidence, that the local department's determination or record contains information
306 that is irrelevant or inaccurate regarding the commission of abuse, neglect, or exploitation by the appellant
307 and therefore shall be amended.

308 B. The Commissioner for Aging and Rehabilitative Services shall designate and authorize one or more
309 duly qualified hearing officers to preside over such administrative review hearings. The decision of such
310 hearing officers shall have the same force and effect as if the Commissioner for Aging and Rehabilitative
311 Services had made the decision. The hearing officer shall have the authority to issue subpoenas for the
312 production of documents and the appearance of witnesses. The hearing officer is authorized to determine the
313 number of depositions that will be allowed and to administer oaths or affirmations to all parties and
314 witnesses who plan to testify at the hearing.

315 The Commissioner for Aging and Rehabilitative Services shall adopt regulations necessary for the
316 conduct of such appeals and hearings. Such regulations shall include provisions stating that (i) the appellant
317 and local department have the right to submit oral or written testimony or documents, (ii) the appellant may
318 be represented by counsel at the hearing, and (iii) the appellant shall be informed of the procedures by which
319 information will be made available to or withheld from the appellant. In the case of any information withheld,
320 the appellant shall be advised of the general nature of such information and the reasons, for privacy or
321 otherwise, that it is being withheld. Upon giving reasonable notice, either party at his own expense may
322 depose a nonparty and submit such deposition at the hearing pursuant to regulation. Upon written motion
323 and good cause shown, the hearing officer may issue subpoenas for the production of documents or to
324 compel the attendance of witnesses at the hearing. Hearing officers shall have the authority to order the
325 amendment of any determinations or records presented if necessary to ensure such determinations or records
326 are accurate and in compliance with the requirements of this chapter or regulations adopted pursuant
327 thereto. Upon petition, the court shall have the power to enforce any subpoena that is not complied with or to
328 review any refusal to issue a subpoena. Such decisions may not be further appealed except as part of a final
329 decision that is subject to judicial review.

330 If, after hearing the facts of the case, the hearing officer determines that the appellant has presented
331 information that was not available to the local department at the time of the local conference and, if made
332 available, may have resulted in a different determination by the local department, the hearing officer may
333 remand the case to the local department for reconsideration. Upon remand, the local department shall
334 reconsider the case within 14 days. If the local department fails to act or amend the record to the satisfaction
335 of the appellant within 14 days, the case shall be returned to the hearing officer for a determination.

336 If aggrieved by the decision of the hearing officer, the appellant may request further review of the
337 decision in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

338 C. Whenever an appeal of the local department's finding is made and a criminal charge or investigation is
339 also filed or commenced against the appellant for the same conduct involving the same victim as investigated
340 by the local department, the appeal process shall automatically be stayed until the criminal prosecution in
341 the trial court is completed, until the criminal investigation is closed, or, in the case of a criminal
342 investigation that is not completed within 180 days of the appellant's request for an appeal of the local
343 department's finding, for 180 days after the appellant's request for appeal. During such stay, the appellant's
344 right of access to the records of the local department regarding the matter being appealed shall also be
345 stayed. Once the criminal prosecution in the trial court has been completed, the criminal investigation is
346 closed, or, in the case of a criminal investigation that is not completed within 180 days of the appellant's
347 request for an appeal of the local department's finding, 180 days have passed, the local department shall
348 advise the appellant in writing of his right to resume his appeal within the time frames provided by law and
349 regulation.

350 D. The local department shall transmit all decisions and findings made during an appeal pursuant to this
351 section to the Commissioner for Aging and Rehabilitative Services.

352 **§ 63.2-1606. Protection of aged or incapacitated adults; mandated and voluntary reporting.**

353 A. Matters giving reason to suspect the abuse, neglect or exploitation of adults shall be reported
354 immediately upon the reporting person's determination that there is such reason to suspect. Medical facilities
355 inspectors of the Department of Health are exempt from reporting suspected abuse immediately while
356 conducting federal inspection surveys in accordance with § 1864 of Title XVIII and Title XIX of the Social
357 Security Act, as amended, of certified nursing facilities as defined in § 32.1-123. Reports shall be made to the
358 local department or the adult protective services hotline in accordance with requirements of this section by
359 the following persons acting in their professional capacity:

360 1. Any person licensed, certified, or registered by health regulatory boards listed in § 54.1-2503, with the
361 exception of persons licensed by the Board of Veterinary Medicine;

362 2. Any mental health services provider as defined in § 54.1-2400.1;

363 3. Any emergency medical services provider certified by the Board of Health pursuant to § 32.1-111.5,
364 unless such provider immediately reports the suspected abuse, neglect or exploitation directly to the attending

- 365 physician at the hospital to which the adult is transported, who shall make such report forthwith;
- 366 4. Any guardian or conservator of an adult;
- 367 5. Any person employed by or contracted with a public or private agency or facility and working with
- 368 adults in an administrative, supportive or direct care capacity;
- 369 6. Any person providing full, intermittent or occasional care to an adult for compensation, including, but
- 370 not limited to, companion, chore, homemaker, and personal care workers;
- 371 7. Any law-enforcement officer; and
- 372 8. Any person who engages in the practice of behavior analysis, as defined in § 54.1-2900.
- 373 B. The report shall be made in accordance with subsection A to the local department of the county or city
- 374 wherein the adult resides or wherein the adult abuse, neglect or exploitation is believed to have occurred or to
- 375 the adult protective services hotline. Nothing in this section shall be construed to eliminate or supersede any
- 376 other obligation to report as required by law. If a person required to report under this section receives
- 377 information regarding abuse, neglect or exploitation while providing professional services in a hospital,
- 378 nursing facility or similar institution, then he may, in lieu of reporting, notify the person in charge of the
- 379 institution or his designee, who shall report such information, in accordance with the institution's policies and
- 380 procedures for reporting such matters, immediately upon his determination that there is reason to suspect
- 381 abuse, neglect or exploitation. Any person required to make the report or notification required by this
- 382 subsection shall do so either orally or in writing and shall disclose all information that is the basis for the
- 383 suspicion of adult abuse, neglect or exploitation. Upon request, any person required to make the report shall
- 384 make available to the adult protective services worker and the local department investigating the reported
- 385 case of adult abuse, neglect or exploitation any information, records or reports which document the basis for
- 386 the report. All persons required to report suspected adult abuse, neglect or exploitation shall cooperate with
- 387 the investigating adult protective services worker of a local department and shall make information, records
- 388 and reports which are relevant to the investigation available to such worker to the extent permitted by state
- 389 and federal law. Criminal investigative reports received from law-enforcement agencies shall not be further
- 390 disseminated by the investigating agency nor shall they be subject to public disclosure; such reports may,
- 391 however, be disclosed to the Adult Fatality Review Team as provided in § 32.1-283.5 or to a local or regional
- 392 adult fatality review team as provided in § 32.1-283.6 and, if reviewed by the Team or a local or regional
- 393 adult fatality review team, shall be subject to applicable confidentiality requirements of the Team or a local or
- 394 regional adult fatality review team.
- 395 C. Any financial institution staff who suspects that an adult has been exploited financially may report such
- 396 suspected financial exploitation and provide supporting information and records to the local department of
- 397 the county or city wherein the adult resides or wherein the exploitation is believed to have occurred or to the
- 398 adult protective services hotline.
- 399 D. Any person other than those specified in subsection A who suspects that an adult is an abused,
- 400 neglected or exploited adult may report the matter to the local department of the county or city wherein the
- 401 adult resides or wherein the abuse, neglect or exploitation is believed to have occurred or to the adult
- 402 protective services hotline.
- 403 E. Any person who makes a report or provides records or information pursuant to subsection A, C, or D,
- 404 or who testifies in any judicial proceeding arising from such report, records or information, or who takes or
- 405 causes to be taken with the adult's or the adult's legal representative's informed consent photographs, video
- 406 recordings, or appropriate medical imaging of the adult who is subject of a report shall be immune from any
- 407 civil or criminal liability on account of such report, records, information, photographs, video recordings,
- 408 appropriate medical imaging or testimony, unless such person acted in bad faith or with a malicious purpose.
- 409 F. An employer of a mandated reporter shall not prohibit a mandated reporter from reporting directly to
- 410 the local department or to the adult protective services hotline. Employers whose employees are mandated
- 411 reporters shall notify employees upon hiring of the requirement to report.
- 412 G. Any person 14 years of age or older who makes or causes to be made a report of adult abuse, neglect,
- 413 or exploitation that he knows to be false is guilty of a Class 4 misdemeanor. Any subsequent conviction of
- 414 this provision is a Class 2 misdemeanor.
- 415 H. Any person who fails to make a required report or notification pursuant to subsection A shall be
- 416 subject to a civil penalty of not more than \$500 for the first failure and not less than \$100 nor more than
- 417 \$1,000 for any subsequent failures. Civil penalties under subdivision A 7 shall be determined by a court of
- 418 competent jurisdiction, in its discretion. All other civil penalties under this section shall be determined by the
- 419 Commissioner for Aging and Rehabilitative Services or his designee. The Commissioner for Aging and
- 420 Rehabilitative Services shall establish by regulation a process for imposing and collecting civil penalties, and
- 421 a process for appeal of the imposition of such penalty pursuant to § 2.2-4026 of the Administrative Process
- 422 Act.
- 423 I. Any mandated reporter who has reasonable cause to suspect that an adult died as a result of abuse or
- 424 neglect shall immediately report such suspicion to the appropriate medical examiner and to the appropriate
- 425 law-enforcement agency, notwithstanding the existence of a death certificate signed by a licensed physician.

426 The medical examiner and the law-enforcement agency shall receive the report and determine if an
427 investigation is warranted. The medical examiner may order an autopsy. If an autopsy is conducted, the
428 medical examiner shall report the findings to law enforcement, as appropriate, and to the local department or
429 to the adult protective services hotline.

430 J. No person or entity shall be obligated to report any matter if the person or entity has actual knowledge
431 that the same matter has already been reported to the local department or to the adult protective services
432 hotline.

433 K. All law-enforcement departments and other state and local departments, agencies, authorities, and
434 institutions shall cooperate with each adult protective services worker of a local department in the detection,
435 investigation, and prevention of adult abuse, neglect, and exploitation, *including matters related to the*
436 *central registry of substantiated reports of adult abuse, neglect, or exploitation.*

437 L. Financial institution staff may refuse to execute a transaction, may delay a transaction, or may refuse to
438 disburse funds if the financial institution staff (i) believes in good faith that the transaction or disbursement
439 may involve, facilitate, result in, or contribute to the financial exploitation of an adult or (ii) makes, or has
440 actual knowledge that another person has made, a report to the local department or adult protective services
441 hotline stating a good faith belief that the transaction or disbursement may involve, facilitate, result in, or
442 contribute to the financial exploitation of an adult. The financial institution staff may continue to refuse to
443 execute a transaction, delay a transaction, or refuse to disburse funds for a period no longer than 30 business
444 days after the date upon which such transaction or disbursement was initially requested based on a good faith
445 belief that the transaction or disbursement may involve, facilitate, result in, or contribute to the financial
446 exploitation of an adult, unless otherwise ordered by a court of competent jurisdiction. Upon refusing to
447 execute a transaction, delaying a transaction, or refusing to disburse funds, the financial institution shall
448 report such refusal or delay within five business days to the local department or the adult protective services
449 hotline. Upon request, and to the extent permitted by state and federal law, financial institution staff may
450 report any information or records relevant to a report or investigation to the local department of social
451 services or to a court-appointed guardian ad litem for the adult who is the subject of the investigation. Absent
452 gross negligence or willful misconduct, the financial institution and its staff shall be immune from civil or
453 criminal liability for (a) providing information or records to the local department of social services or to a
454 court-appointed guardian ad litem or (b) refusing to execute a transaction, delaying a transaction, or refusing
455 to disburse funds pursuant to this subsection. The authority of a financial institution staff to refuse to execute
456 a transaction, to delay a transaction, or to refuse to disburse funds pursuant to this subsection shall not be
457 contingent upon whether financial institution staff has reported suspected financial exploitation of the adult
458 pursuant to subsection C.

459 **2. That the Commissioner for Aging and Rehabilitative Services (the Commissioner) shall adopt**
460 **regulations to implement the provisions of this act. The Commissioner's initial adoption of such**
461 **regulations shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq. of**
462 **the Code of Virginia).**

463 **3. That the provisions of this act shall become effective on July 1, 2026.**