

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 63.2-1506 and 63.2-1516 of the Code of Virginia, relating to local departments of social services; child abuse and neglect; recorded interviews.

[H 1222]

Approved

Be it enacted by the General Assembly of Virginia:
1. That §§ 63.2-1506 and 63.2-1516 of the Code of Virginia are amended and reenacted as follows:
§ 63.2-1506. Family assessments by local departments.

- A. A family assessment requires the collection of information necessary to determine:
1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
3. Risk of future harm to the child;
4. Whether the mother of a child who was exposed in utero to a controlled substance sought substance abuse counseling or treatment prior to the child's birth; and
5. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services.
B. When a local department has been designated as a child-protective services differential response system participant by the Department pursuant to § 63.2-1504 and responds to the report or complaint by conducting a family assessment, the local department shall:
1. Conduct an immediate family assessment and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3. Any interview of a child conducted pursuant to this subsection shall be audio or audiovisually recorded pursuant to subsection C of § 63.2-1516;
2. Obtain and consider the results of a search of the child abuse and neglect registry for any individual who is the subject of a family assessment. The local board shall determine whether the individual has resided in another state within at least the preceding five years, and, if he has resided in another state, the local board shall request a search of the child abuse and neglect registry or equivalent registry maintained by such state. The local board also may obtain and consider, in accordance with regulations of the Board, statewide criminal history record information from the Central Criminal Records Exchange for any individual who is the subject of a family assessment;
3. Immediately contact the subject of the report and the family of the child alleged to have been abused or neglected and give each a written and an oral explanation of the family assessment procedure. The family assessment shall be in writing and shall be completed in accordance with Board regulation;
4. Complete the family assessment within 60 days and transmit a report to such effect to the Department and to the person who is the subject of the family assessment;
5. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family. Families have the option of declining the services offered as a result of the family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to redetermine the case as one that needs to be investigated. In no instance shall a case be redetermined as an investigation solely because the family declines services;
6. Petition the court for services deemed necessary;
7. Make no disposition of founded or unfounded for reports in which a family assessment is completed. Reports in which a family assessment is completed shall not be entered into the central registry contained in § 63.2-1515;
8. Commence an immediate investigation, if at any time during the completion of the family assessment, the local department determines that an investigation is required; and
9. Upon request, disclose to the child's parent or guardian the location of the child, provided that (i) the family assessment has not been completed and a report has not been transmitted pursuant to subdivision 4; (ii) the parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect; (iii) the parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody; (iv) the local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and (v) disclosure of the child's location

57 to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or
 58 any other person responsible for the care of the child.

59 C. When a local department has been designated as a child-protective services differential response
 60 agency by the Department, the local department may investigate any report of child abuse or neglect, but the
 61 following valid reports of child abuse or neglect shall be investigated: (i) sexual abuse, (ii) child fatality, (iii)
 62 abuse or neglect resulting in serious injury as defined in § 18.2-371.1, (iv) cases involving a child's being left
 63 alone in the same dwelling with a person to whom the child is not related by blood or marriage and who has
 64 been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant
 65 to § 9.1-902, (v) child has been taken into the custody of the local department, or (vi) cases involving a
 66 caretaker at a state-licensed child day center, religiously exempt child day center, licensed, registered or
 67 approved family day home, private or public school, hospital or any institution. If a report or complaint is
 68 based upon one of the factors specified in subsection B of § 63.2-1509, the local department shall (a) conduct
 69 a family assessment, unless an investigation is required pursuant to this subsection or other provision of law
 70 or is necessary to protect the safety of the child, and (b) develop a plan of safe care in accordance with federal
 71 law, regardless of whether the local department makes a finding of abuse or neglect.

72 D. Any individual who is the subject of a family assessment conducted under this section shall notify the
 73 local department prior to changing his place of residence and provide the local department with the address of
 74 his new residence.

75 **§ 63.2-1516. Recording child abuse investigations.**

76 A. *As used in this section, "child welfare interview" means a documented interview with all relevant*
 77 *parties, including a child and an adult, conducted by a child protective services agency in order to elicit*
 78 *information regarding concerns of abuse, neglect, or exposure to violence.*

79 B. Any person ~~who is suspected of abuse or neglect of a child and who is the subject of an investigation or~~
 80 ~~family assessment pursuant to this chapter~~ may ~~tape~~ audio record any communications between him and
 81 child-protective services personnel that take place during the course of ~~such an~~ investigation or family
 82 assessment, provided all parties to the conversation are aware the conversation is to be recorded. The parties'
 83 knowledge of the recording shall be demonstrated by a declaration at the beginning of the recorded portion of
 84 the conversation that the recording is to be made. If a person ~~who is suspected of abuse or neglect of a child~~
 85 ~~and who is the subject of an investigation or family assessment pursuant to this chapter~~ elects to make a ~~tape~~
 86 ~~an audio~~ recording as provided in this section, the child-protective services personnel may also make such a
 87 recording.

88 C. *Unless otherwise demonstrated by good cause shown, any child welfare interview conducted pursuant*
 89 *to this chapter by the local department shall be audio or audiovisually recorded. The failure by a local*
 90 *department to record such interview shall not cause an otherwise voluntary statement to be inadmissible in a*
 91 *civil or criminal proceeding. No such person who is suspected of abuse or neglect of a child and who is the*
 92 *subject of an investigation or family assessment pursuant to this chapter shall have standing to bring a civil*
 93 *action for failure by a local department to comply with the requirements of this subsection. Any such*
 94 *recording shall be securely stored by the local department. Pursuant to procedures established by the*
 95 *Department, the Department shall approve all equipment used to make such recordings.*