

Va. Code Ann. § 63.2-1509



Formerly cited as VA ST § 63.1-248.3

West's Annotated Code of Virginia [Currentness](#)

Title 63.2. Welfare (Social Services) ([Refs & Annos](#))

Subtitle III. Social Services Programs

[Chapter 15](#). Child Abuse and Neglect ([Refs & Annos](#))

[Article 2](#). Complaints

⇒§ 63.2-1509. 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 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's 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;
12. Any person associated with or employed by any private organization responsible for the care, custody or control of children; and
13. Any person who is designated a court-appointed special advocate pursuant to Article 5 ([§ 9.1-151 et seq.](#)) of [Chapter 1 of Title 9.1](#).

If neither the locality in which the child resides nor 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's toll-free **child abuse** and neglect hotline.

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If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the court of the county or city where the abuse or neglect was discovered. Upon receipt of such a report by the court, the judge shall assign the report to a local department that is not the employer of the suspected employee for investigation or family assessment. The judge may consult with the Department in selecting a local department to respond to the report or the complaint.

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 Board. Any person required to make the report pursuant to this subsection shall disclose all information that 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, which is the agency of jurisdiction, any information, records or reports that document the basis for the report. All persons required by this subsection to report suspected abuse or neglect who maintain a record of a child who is the subject of such a report shall cooperate with the investigating agency and shall make related information, records and reports available to the investigating agency unless such disclosure violates the federal Family Educational Rights and Privacy Act ([20 U.S.C. § 1232\(g\)](#)). Provision of such information, records and reports by a health care provider shall not be prohibited by [§ 8.01-399](#). Criminal investigative reports received from law-enforcement agencies shall not be further disseminated by the investigating agency nor shall they be subject to public disclosure.

B. 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.

C. Any person who makes a report or provides records or information pursuant to subsection A or who testifies in any judicial proceeding arising from such report, records or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information or testimony, unless such person acted in bad faith or with malicious purpose.

D. Any person required to file a **report** pursuant to 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.

[Acts 2002, c. 747, eff. Oct. 1, 2002](#); [Acts 2002, c. 860](#).

HISTORICAL AND STATUTORY NOTES

Acts 2002, c. 860, in the fourth undesignated paragraph following subd. A.13, changed "The person" to "Any person", inserted "pursuant to this subsection" following "make the report", and inserted "information," preceding "records or reports", all in the second sentence; also in the fourth undesignated paragraph following subd. A.13, added the third, fourth, and fifth sentences, relating to cooperation with and disclosure of reports to the investigating agency; changed the subsection designator "A1" to "B"; inserted new subsec. C, relating to immunity; and redesignated former subsec. B as subsec. D.

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Acts 2004, Sp.S. I, c. 4, eff. July 1, 2004, in item 355 C provided:

"C. The toll-free telephone hotline operated by the Department of Social Services to receive child abuse and neglect complaints shall also be publicized and used by the Department to receive complaints of adult abuse and neglect."

Acts 2005, c. 53, provided in the first enactment:

"§ 1. Child day programs; parental notification of child's injury.

"The Board of Social Services and the Child Day-Care Council shall, by July 1, 2006, review all regulations under their purview regarding child day programs to determine whether they adequately provide for the notification of parents, legal guardians, or other persons duly authorized to pick up a child, in the event a child sustains a significant physical injury while under a program's care. If the Board or Council determines that the regulations do not provide adequate notification provisions, then the Board, or Council in the case of child day centers, shall adopt regulations that require each program to notify a child's parent, legal guardian, or other person duly authorized to pick up a child whenever any owner, operator, manager, or employee thereof has actual knowledge of a significant physical injury sustained by a child while in attendance. The regulations shall establish notification procedures, including the time and manner in which notification shall be made and the nature and scope of physical injuries that shall require notification."

Derivation:

Acts 1975, c. 341; Acts 1976, c. 348; Acts 1978, c. 747; Acts 1993, c. 443; Acts 1994, c. 840; Acts 1995, c. 810; Acts 1998, c. 704; Acts 1998, c. 716; Acts 1999, c. 606; Acts 2000, c. 500; Acts 2001, c. 853; [§ 63.1-248.3](#).

CROSS REFERENCES

Abortion, parental notice, see [§ 16.1-241](#).

Child day center operated by religious institution exempt from licensure, requirements, see [§ 63.2-1716](#).

Communications between counselors, social workers and psychologists and clients, see [§ 8.01-400.2](#).

Court-Appointed Special Advocate Program, see [§ 9.1-151](#) et seq.

Hospitals and nursing homes, confidentiality of complainant's identity, see [§ 32.1-125.5](#).

Mental health care records, custody and visitation, see [§ 20-124.3:1](#).

Newborn children, substance abuse, see [§ 16.1-241.3](#).

Patient health records privacy, see [§ 32.1-127.1:03](#).

Suicide risk related to abuse or neglect, see [§ 22.1-272.1](#).

Teachers, duty to **report child abuse** or neglect, notice, see [§ 22.1-291.3](#).

Venereal disease, see [§ 32.1-36](#).

ADMINISTRATIVE CODE REFERENCES

Child protective services, see [22 VAC 40-705-10](#) et seq.

LAW REVIEW AND JOURNAL COMMENTARIES

Va. Code Ann. § 63.2-1509

The [White-Collar Police Force: "Duty to Report" Statutes in Criminal Law Theory](#). Thompson, 11 Wm. & Mary Bill Rts. J. 3 (2002).

LIBRARY REFERENCES

Key Numbers

Infants k13.5.

Westlaw Key Number Search: 211k13.5.

ALR Library

[Admissibility of testimony regarding spontaneous declarations made by one incompetent to testify at trial](#), 15 A.L.R. 4th 1043.

[Closed-circuit television witness examination](#), 61 A.L.R. 4th 1155.

[Competency of one spouse to testify against other in prosecution for offense against child of both or either](#), 93 A.L.R. 3d 1018.

[Competency of one spouse to testify against other in prosecution for offense against third party as affected by fact that offense against spouse was involved in same transaction](#), 74 A.L.R. 4th 277.

[Failure of state or local Government entity to protect child abuse victim as violation of Federal Constitutional Right](#), 79 A.L.R.Fed. 514.

[Legal malpractice in defense of parents at proceedings to terminate parental rights over dependent or neglected children](#), 18 A.L.R. 5th 902.

[Tort liability of public authority for failure to remove parentally abused or neglected children from parents' custody](#), 60 A.L.R. 4th 942.

[Use of videotape to take deposition for presentation at civil trial in state court](#), 66 A.L.R. 3d 637.

[Validity and construction of penal statute prohibiting child abuse](#), 1 A.L.R. 4th 38.

[Validity, construction, and application of state statute requiring doctor or other person to **report child abuse**](#), 73 A.L.R. 4th 782.

[Validity, construction, and application of statute limiting physician-patient privilege in judicial proceedings relating to child abuse or neglect](#), 44 A.L.R. 4th 649.

Encyclopedias

[42 Am. Jur. 2d, Infants § 16](#).

Trial Strategies

[38 Am. Jur. Trials 1](#), Professional Liability for Failure to **Report Child Abuse**.

[2 Am. Jur. Proof of Facts 2d 365](#), Child Abuse--The Battered Child Syndrome.

[3 Am. Jur. Proof of Facts 2d 265](#), Child Neglect.

[20 Am. Jur. Proof of Facts 2d 511](#), Teacher's Use of Excessive Corporal Punishment.

[25 Am. Jur. Proof of Facts 3d 189](#), Corroboration of a Child's Sexual Abuse Allegations with Behavioral Evidence.

RESEARCH REFERENCES

Forms

[Va. Prac. Family Law: Theory Practice and Forms § 15:7](#), Factors in Determining Child Custody.

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[Va. Prac. Family Law: Theory Practice and Forms § 15:1.1](#), Virginia's Statutory Custody and Visitation Scheme for Minor Children.

NOTES OF DECISIONS

In general [1/2](#) Religious organizations [1](#)

[1/2](#). In general

Medical personnel and their staff, who have reason to suspect that a child is abused or neglected or that statutory rape has occurred, have a duty to report such suspicions to the local department of social services or the Department of Social Services' hotline pursuant to § 63.2-1509. Such reporting is a specific exception to [§ 32.1-127.1:03](#) and will not be considered a violation of the patient confidentiality requirements. 2003 Op.Atty.Gen., February 11, 2003.

[1](#). Religious organizations

Reporting requirement imposed on child care centers with respect to **child abuse** does not preclude churches which run child care centers from ministering to families with **child abuse** problems, so that the **reporting** requirement does not burden the churches' free exercise of religion. [U.S.C.A. Const.Amend. 1](#); [Va.Code 1950, § 63.1-248.3](#). [Forest Hills Early Learning Center, Inc. v. Lukhard, 1987, 661 F.Supp. 300](#), reversed [846 F.2d 260](#), rehearing denied, certiorari denied [109 S.Ct. 837, 488 U.S. 1029, 102 L.Ed.2d 969](#). Constitutional Law  84.5(7.1)

Former § 63.1-248.3(A)(12) [now § 63.2-1509 (A)(12)] imposed a duty on volunteer and professional Boy Scout leaders, who had reason to suspect that a child was abused or neglected, to report the matter to the local department of social services or the Department of Social Services' hotline. 2002 Op.Atty.Gen., June 27, 2002.

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Current through End of the 2005 Regular Session

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