

Child Protective Services

A Guide To Investigative Procedures



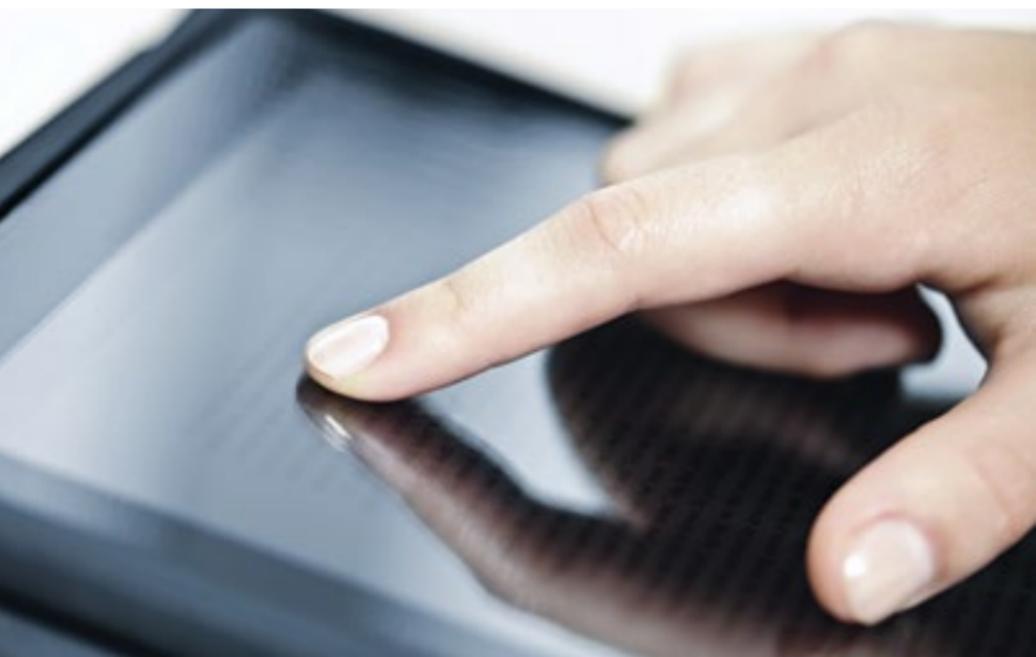
The purpose of this brochure is to help you understand the Child Protective Services (CPS) reporting and response process. Please contact your CPS worker if you have additional questions that are not answered by the information provided in this brochure.

What Is Child Protective Services?

CPS, which operates under the Virginia Department of Social Services (VDSS), has the responsibility under Section 63.2-1500, et seq of the *Code of Virginia* to respond to reports of suspected child abuse or neglect.

Local departments of social services are required by law to:

- ▶ Act in response to valid reports of suspected child maltreatment.
- ▶ Evaluate child safety.
- ▶ Support and strengthen families, whenever possible.
- ▶ Facilitate services to families to help ensure the safety of their children.
- ▶ Prevent future abuse or neglect.





What Is Child Abuse And Neglect?

Section 63.2-100 of the *Code of Virginia* defines an abused or neglected child as any child under 18 years of age whose parent, guardian, or other person responsible for the child's care:

- 1) Causes or threatens to cause a non-accidental physical or mental injury.
- 2) Causes or threatens to cause a non-accidental physical or mental injury during the manufacture or sale of certain drugs.
- 3) Neglects or refuses to provide adequate food, clothing, shelter, emotional nurturing, or health care.
- 4) Abandons the child.
- 5) Fails to provide adequate supervision in relation to the child's age and level of development.
- 6) Commits or allows to be committed any illegal sexual act upon a child including incest, rape, fondling, indecent exposure, prostitution, or allows a child to be used in any sexually explicit visual material.
- 7) Knowingly leaves a child alone in the same dwelling with a person who is not related to the child by blood or marriage and who is required to register as a violent sexual offender.

An abused or neglected child is also defined as a child who has been identified as a victim of sex trafficking in the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of a commercial sex act.



Additionally, the law requires health care providers to contact CPS regarding newborns affected by substance abuse or experiencing withdrawal symptoms as a result of being exposed to drugs or alcohol during pregnancy.

Why Has A CPS Worker Contacted Me?

You have been contacted because CPS received a report of possible abuse or neglect of a child or children in your care.

Why Would Someone Make A Report?

The purpose of reporting is to identify abused or neglected children as soon as possible so that the child's safety and well being can be addressed.

Some signs that people notice and may report to CPS include, but are not limited to:

- ▶ A child with questionable injuries.
- ▶ A young child who is left alone.
- ▶ A child who has unattended health care problems or medical needs.
- ▶ A child who is consistently hungry or appears malnourished.
- ▶ A child who has a sexually transmitted disease or other signs of sexual abuse.

Who Made The Report?

Anyone can make a report of suspected child abuse or neglect. Certain professionals who work with children are required by law to immediately report suspected child abuse and or neglect. The person making the report is not required to provide his name. Because of confidentiality laws, the name of the reporter will not be released unless there is a court order or during court testimony.

What Happens After A Report Is Made?

CPS will respond to valid child abuse or neglect reports by conducting a family assessment response or an investigation response. The goals of both responses are to:

- ▶ Assess child safety.
- ▶ Strengthen and support families, whenever possible.
- ▶ Prevent future child maltreatment.

Investigation Response

A child abuse or neglect investigation is conducted when there are immediate child safety concerns, or the report is required by law to be investigated. The following reports shall be investigated:

- ▶ Sexual abuse.
- ▶ Death of a child.
- ▶ Serious injury.
- ▶ Hospitalization due to suspected abuse/neglect.
- ▶ Injuries requiring medical evaluation/treatment.
- ▶ Abandonment.
- ▶ Abuse or neglect occurring in out-of-family settings, such as schools, day care programs or residential programs for children and foster homes.
- ▶ Child left alone in the same dwelling with an unrelated registered violent sexual offender.

What Happens During An Investigation?

During an investigation, the CPS worker will:

- ▶ Talk face to face with the child, the parents, and the alleged abuser/neglector.
- ▶ Conduct an initial safety assessment and develop a safety plan with the family for the child, if needed.
- ▶ Look for signs of injury, abuse, or neglect.
- ▶ Observe the home environment and where the alleged abuse or neglect occurred.
- ▶ Interview and observe the siblings of the victim child.
- ▶ Check for prior reports of abuse or neglect.
- ▶ Contact and interview other persons who know the child and family such as doctors, teachers, or relatives.
- ▶ Complete a risk assessment with the family and determine what services, if any, are needed to prevent future abuse or neglect.
- ▶ Request assistance in identifying other individuals who may be able to help the family if services are needed to keep the child safe.
- ▶ If needed, arrange for services to support the family.

The *Code of Virginia* requires a CPS investigation be completed in 45-60 days from the date of the report. If an investigation is being conducted with law enforcement, this time frame may be extended to 90 days.

In certain sexual abuse investigations or child fatalities, the time frame may be suspended pending receipt of necessary reports.



What Right Does CPS Have To Talk With A Child?

In order to provide an objective child safety assessment, Section 63.2-1518 of the *Code of Virginia* allows a CPS worker to speak with a child and his/her siblings without parental consent and outside the presence of the parent/caretaker. If the CPS worker talks with the child or siblings without the parent/caretaker's prior knowledge, the parent/caretaker will be notified about the interview as soon as possible.

All CPS interviews conducted during an investigation with the alleged victim child are required to be electronically recorded. There are some exceptions to this requirement.

When the CPS worker determines that:

- ▶ The child's safety may be endangered by electronic recording of the interview.
- ▶ Electronic recording is impractical due to the child's age and development level.
- ▶ The child refuses to participate.
- ▶ In conjunction with the investigation team (which may include law enforcement), determines that electronic recording is inappropriate.



What About Examining The Child?

The CPS worker will observe the child for injuries or signs of abuse or neglect. Under Section 63.2-1520 of the *Code of Virginia*, the CPS worker is permitted to take photographs and make the necessary arrangements to X-ray the child as part of a medical evaluation. This can be conducted without parental/caretaker consent.

Photographs of the living conditions in which the child resides may also be taken with the consent of the parent/caretaker, or under the direction of the local Commonwealth Attorney's Office.

What If I Don't Want To Be Investigated?

In most investigations, there is cooperation between the family and the CPS worker. The interview process provides an opportunity for your family to express concerns about your child, to identify family needs, to ask questions, and to obtain feedback from the CPS worker. If your family chooses not to cooperate or allow entry into the home, the CPS worker is obligated to proceed with the investigation, as required by law. If there is sufficient cause to believe that any child is not safe, the CPS worker may contact law enforcement for assistance or petition the court to order your cooperation.

Will My Child Be Taken Away?

The CPS worker will assist your family in providing for the child's safety in your home. Most of the time, a plan can be made that will ensure the child's safety in his own home. If the child's safety cannot be assured, then a determination will be made as to whether the child may need to be separated from the family. This may include having the alleged abuser/neglector temporarily leave the home, voluntarily placing the child in the care of relatives, or in a foster home (temporary custody granted to the local department of social services) until the court determines that it is safe for the child to return home.

What Are My Rights?

Parenting is both a privilege and a responsibility. If you are involved in a CPS investigation, you have the following rights:

- ▶ To be notified in writing that you are the subject of a report.
- ▶ To meet with the CPS worker to discuss the report, ask questions, and obtain feedback.
- ▶ To refuse the CPS worker entry into your home.
- ▶ To electronically record the communications between you and the CPS worker, provided all parties are aware of the recording.
- ▶ To accept or decline services.
- ▶ To appeal the investigation findings if you are named as the person who abused or neglected a child.





Will Criminal Charges Be Filed?

CPS is required by Section 63.2-1503 of the *Code of Virginia* to report certain types of suspected child abuse or neglect to law enforcement and the Commonwealth's Attorney. These include:

- ▶ Death of a child.
- ▶ Sexual abuse.
- ▶ Serious injury.
- ▶ A drug offense involving a child.
- ▶ Abduction.
- ▶ Acts contributing to the delinquency of a minor.
- ▶ Child left alone in the same dwelling with an unrelated registered violent sexual offender.

The decision to file criminal charges or prosecute is made by local law enforcement or the local Commonwealth's Attorney.

The CPS investigation is an administrative proceeding and is separate from any criminal proceeding.

What Happens If I Move?

Virginia law requires you to notify CPS BEFORE you move and provide your new address.

What Happens After An Investigation?

Once the investigation is completed, the CPS worker will evaluate all information collected during the investigation and will determine if the report is founded or unfounded. You will be notified both orally and in writing of the disposition.

Unfounded Disposition

An Unfounded Disposition means that information gathered during the investigation did not support a founded disposition. Records of unfounded investigations are kept by local departments of social services and the VDSS child abuse and neglect information system for one year from the date of the complaint. This information is confidential and used only by local departments of social services.

An unfounded disposition may be kept for more than one year if additional CPS reports are received during this period or if the alleged abuser/neglector requests that the information be retained for an additional two years.

If you believe the report was made maliciously or in bad faith, Section 63.2-1514 of the *Code of Virginia* allows you to petition the Circuit Court for access to the CPS record, including the identity of the reporter.



Founded Disposition

A Founded Disposition means the information gathered during the investigation has revealed a preponderance of evidence to support that abuse or neglect occurred. Section 63.2-1514 of the *Code of Virginia* requires that records of founded dispositions be kept by local departments of social services and the Child Abuse and Neglect Central Registry.

These records are kept 3 to 18 years, depending upon the severity of the abuse or neglect. Information contained in the Child Abuse and Neglect Central Registry is confidential. With the exception of local departments of social services, the information can only be released with your signed, notarized authorization or by court order.

How Do I Appeal A CPS Finding?

If you disagree with the findings of the investigation and want your record purged, you must submit a written request to the director of the local department of social services **within 30 calendar** days after you receive the written notice of CPS findings. A local conference will be held. If you are dissatisfied with the outcome of the meeting, or if the local department of social services fails to send you a written decision within 45 days of your written request to appeal the findings, you may request an administrative review before a State Appeals Hearing Officer by writing to the Commissioner at the Virginia Department of Social Services.

If you are not satisfied with the Hearing Officer's decision, you have the right to petition the circuit court for a judicial record review. The CPS worker will provide you with a written explanation of the appeals process.

What If There Are Pending Criminal Charges?

If at the time you are notified of the founded disposition and you have been charged criminally or are under investigation, your right to appeal will be stayed until criminal prosecution in trial court is complete, or the criminal investigation is not completed within 180 days of your written request for an appeal. Regardless, all requests for appeal of CPS findings must be submitted in writing **within 30 calendar days** after receiving the written notice from CPS.

May I See The Investigation Report?

After the investigation is completed, you may request to see a copy of your personal information in the CPS report from the local department of social services. Your request will be granted unless there is an ongoing criminal investigation or criminal proceeding; or the personal information in your file could endanger the well-being of your child or other persons.

What Kinds Of Family Services Are Provided?

A local department of social services may:

- ▶ Develop a service plan with you, designed to ensure the safety and well being of your child.
- ▶ Link your family to community services such as family counseling, parent support groups, parenting classes, substance abuse services, children's programs, child care, home visits by a CPS worker, etc.

You may decline services for your family and your child. The case will be closed if there is no threat to your child's safety. However, if the CPS worker believes your child's safety is compromised, CPS may petition the court to require additional services to ensure the safety of your child.



Date: _____

To: _____

A report of suspected child abuse or neglect has been received about:

(Child or Children)

The allegations being investigated are:

Please call:

(CPS Worker)

at: _____

(Agency Name & Telephone)

to discuss the report, answer your questions, discuss your family's need for services and notify immediately any change of address.

Child Abuse Hotline

1-800-552-7096

(Language Line available)



VIRGINIA DEPARTMENT OF
SOCIAL SERVICES

Division of Family Services

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www.dss.virginia.gov

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