



# COMMONWEALTH OF VIRGINIA

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The Honorable G. Manoli Loupassi  
Member, House of Delegates  
6002-A West Broad Street, Suite 200  
Richmond, Virginia 23230

Dear Delegate Loupassi:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

## **Issue Presented**

You ask concerning advocates working in domestic violence shelters or sexual assault crisis centers, who are subject to § 63.2-104.1, and whether § 63.2-1509 mandates such persons to report child abuse and neglect.

## **Response**

It is my opinion that advocates in domestic violence shelters and sexual assault crisis centers generally are not statutorily mandated to report child abuse and neglect. However, when such an advocate performs activities that would place him under any of the categories in § 63.2-1509(A), he would be required to report suspected child abuse or neglect.

## **Background**

You relate three specific hypothetical situations<sup>1</sup> concerning the application of § 63.2-1509. In each of these hypothetical fact scenarios, the shelter or center does not assume the care, custody, or control of the child. Also, you report that the advocate is not a mental health professional or other person enumerated in § 63.2-1509(A)(1)-(9) or a person who has received the training described in § 63.2-1509(A)(13). The distinguishing facts in each hypothetical you present are related to the type of contact the child has with the center or shelter and the nature of the service provided to the parent or child.

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<sup>1</sup>For purposes of this opinion, I base my conclusions solely on the hypothetical facts that you present. Should any of the facts change, the conclusion of the opinion also may change.

### **Applicable Law and Discussion**

Section 63.2-1509(A) requires that

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 [State Department of Social Services'] toll-free child abuse and neglect hotline[.]

Further, § 63.2-1509(A) lists the persons who are mandated to report such abuse and neglect:

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 mental health professional;
8. Any law-enforcement officer or animal control officer;
9. Any mediator eligible to receive court referrals pursuant to § 8.01-576.8;
10. 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;
11. Any person associated with or employed by any private organization responsible for the care, custody or control of children;
12. 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;
13. Any person, over the age of 18 years, who has received training approved by the Department of Social Services for the purposes of recognizing and reporting child abuse and neglect;
14. Any person employed by a local department as defined in § 63.2-100 who determines eligibility for public assistance; and
15. Any emergency medical services personnel certified by the Board of Health pursuant to § 32.1-111.5, unless such personnel immediately reports the matter directly to the attending physician at the hospital to which the child is transported, who shall make such report forthwith.

Only the persons enumerated in § 63.2-1509(A) have an affirmative statutory duty to report suspected child abuse and neglect. I note that in addition to the affirmative duty placed on some persons to report suspected child abuse or neglect, “[a]ny person who suspects that a child is an abused or neglected child may make a complaint concerning such child.”<sup>2</sup>

Therefore, based upon the facts in the hypothetical scenarios you present, advocates in domestic violence shelters or sexual assault crisis centers generally are not statutorily mandated to reporter child abuse and neglect. However, should the duties of an advocate in a domestic violence shelter or sexual assault crisis center place the advocate into one of the categories enumerated in § 63.2-1509, then such advocate would have an affirmative duty to report any suspected child abuse or neglect.

### **Conclusion**

Accordingly, it is my opinion that advocates in domestic violence shelters and sexual assault crisis centers generally are not statutorily mandated to report child abuse and neglect. However, when such an advocate performs activities that would place him under any of the categories in § 63.2-1509(A), he would be required to report suspected child abuse or neglect.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. C. Mims', with a stylized flourish at the end.

William C. Mims

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<sup>2</sup>VA. CODE ANN. § 63.2-1510 (2007).