

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 290

An Act to amend and reenact §§ 63.1-238.1 and 63.1-238.3 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 11.1 of Title 63.1 a section numbered 63.1-238.03, relating to adoption assistance.

[H 556]

Approved April 3, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-238.1 and 63.1-238.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11.1 of Title 63.1 a section numbered 63.1-238.03 as follows:

§ 63.1-238.03. Purpose and intent of adoption assistance.

The purpose of adoption assistance is to facilitate adoptive placements and ensure permanency for children with special needs as defined in § 63.1-238.1.

§ 63.1-238.1. Definitions.

As used in this chapter:

(a) "Child-placing agency" shall have the same meaning as defined in § 63.1-220.

(b) "Child with special needs" shall mean any child (i) in the custody of a local board of ~~public~~ ~~welfare or~~ social services ~~which~~ *that* has the authority to place the child for adoption and consent thereto in accordance with the provisions of § 63.1-56 or (ii) in the custody of a licensed child-placing agency, for whom it has been determined that it is unlikely that the child will be adopted within a reasonable period of time due to one or more factors including, but not limited to:

1. Physical, mental or emotional condition existing prior to adoption;

2. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability; or

3. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings.

This term shall also include a child for whom the factors set out in subdivision (b) 1 or (b) 2 are present at the time of adoption but are not diagnosed until after the final order of adoption is entered and no more than one year has elapsed.

(c) "*Subsidy payments*" shall mean those payments made pursuant to requirements set forth in this chapter as part of adoption assistance.

§ 63.1-238.3. Subsidy payments; maintenance; special needs; payment agreements; continuation of payments when adoptive parents move to another jurisdiction; funds.

A. Subsidy payments shall include:

1. A maintenance subsidy which shall be payable monthly to provide for the support and care of the child; however, the maintenance subsidy shall not exceed the maximum regular foster care payment that would otherwise be made for the child; and

2. A special need subsidy to provide special services to the child which the adoptive parents cannot afford and which are not covered by insurance or otherwise, including, but not limited to:

a. Medical, surgical and dental care;

b. Hospitalization;

c. Legal services in effecting adoption;

d. Individual remedial educational services;

e. Psychological and psychiatric treatment;

f. Speech and physical therapy;

g. Special services, equipment, treatment and training for physical and mental handicaps; and

h. Cost of adoptive home study and placement by a child-placing agency other than the local board.

Special need subsidies may be paid to the vendor of the goods or services directly or through the adoptive parents.

Subsidy payments shall cease when the child with special needs reaches the age of eighteen years. If it is determined that the child has a mental or physical handicap, or an educational delay resulting from such handicap, warranting the continuation of assistance, subsidy payments may be made until the child reaches the age of twenty-one years.

B. Maintenance subsidy payments and special need subsidy payments shall be made on the basis of a subsidy payment agreement entered into by the local board and the adoptive parents or, in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, the licensed child-placing agency and the adoptive parents.

Prior to entering into an adoption assistance agreement, the local board or licensed child-placing

agency shall ensure that adoptive parents have received information about their child's eligibility for subsidy; about their child's special needs and, to the extent possible, the current and potential impact of those special needs. The local board or licensed child-placing agency shall also ensure that adoptive parents receive information about the process for appeal in the event of a disagreement between the adoptive parent and the local board or the adoptive parent and the child-placing agency and information about the procedures for revising the adoption assistance agreement.

Adoptive parents shall submit annually to the local board within thirty days of the anniversary date of the approved agreement an affidavit which certifies that (i) the child on whose behalf they are receiving subsidy payments remains in their care, ~~and~~ (ii) the child's condition requiring subsidy continues to exist, *and (iii) whether or not changes to the adoption assistance agreement are requested.* Failure to provide this information may be grounds for suspension of the subsidy payment until such time as the information is provided.

Maintenance subsidy payments made pursuant to this section shall not be reduced unless the circumstances of the child or adoptive parents have changed significantly in relation to the terms of the subsidy agreement.

C. Responsibility for subsidy payments for a child placed for adoption shall be continued *by the local board that initiated the agreement* in the event that the adoptive parents live in or move to another jurisdiction, provided that the adoptive parents meet the conditions of the agreement and provided that an agreement can be made with the appropriate agency of the locality within or without the Commonwealth where the adoptive family lives or is moving to provide the necessary assistance in administering the subsidy agreement.

D. Payments may be made under this chapter from appropriations for foster care services for the maintenance and medical or other services for children who have special needs in accordance with § 63.1-238.2. Within the limitations of the appropriations to the Department, the Commissioner shall reimburse any agency making payments under this chapter ~~to the extent of 80 percent of such payments becoming due on or before June 30, 1989, and 100 percent of such payments becoming due on or after July 1, 1989.~~ Any such agency may seek and accept funds from other sources, including federal, state, local, and private sources, to carry out the purposes of this chapter.