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**SENATE BILL NO. 865**

Offered January 10, 2001

Prefiled December 27, 2000

*A BILL to amend and reenact §§ 63.1-56 and 63.1-205 of the Code of Virginia, relating to foster care.*

Patron—Miller, Y.B.

Referred to Committee on Rehabilitation and Social Services

**Be it enacted by the General Assembly of Virginia:****1. That §§ 63.1-56 and 63.1-205 of the Code of Virginia are amended and reenacted as follows:**

§ 63.1-56. Accepting children for placing in homes, institutions, etc.; care and control.

A local board shall have the right to accept for placement in suitable family homes, child-caring institutions, residential facilities, group homes or independent living arrangements, subject to the supervision of the Commissioner and in accordance with rules prescribed by the State Board, such persons under eighteen years of age as may be entrusted to it by the parent, parents or guardian, committed by any court of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians where legal custody remains with the parent, parents, or guardians. The State Board of Social Services shall prescribe standards, rules and regulations for the provision of foster care services by local boards which shall be directed toward the prevention of unnecessary foster care placements and towards the immediate care of and permanent planning for children in the custody of or placed by local boards and which shall achieve, as quickly as practicable, permanent placements for such children. The local board shall, in accordance with the rules prescribed by the State Board and in accordance with the entrustment agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority. Whenever a local board places a child where legal custody remains with the parent, parents or guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement shall specify the responsibilities of each for the care and control of the child. The local board shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the termination of all parental rights and responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the child. The local board shall also have the right to accept temporary custody of any person under eighteen years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.1-248.9.

Whenever a local board accepts custody of a child pursuant to an entrustment agreement entered into under the authority of this section, a petition for approval of the entrustment agreement by the local board (i) shall be filed in the juvenile and domestic relations district court of the city or county within a reasonable period of time, not to exceed eighty-nine days after the execution of an entrustment agreement for less than ninety days, if the child is not returned to his home within that period; (ii) shall be filed within a reasonable period of time, not to exceed thirty days after the execution of an entrustment agreement for ninety days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and (iii) may be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

Prior to placing any such child in any foster family home, child-caring institution, residential facility or group home the local board shall enter into a written agreement with the foster parents or other appropriate custodian setting forth therein the conditions under which the child is so placed. However, if a child is placed in a child-caring institution or residential facility licensed as a temporary emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the facility, the written agreement does not need to be entered into prior to placement, but shall be completed and signed by the local board and the facility representative within twenty-four hours of the child's arrival or by the end of the next business day after the child's arrival. *The written agreement between any foster home, child-caring institution, residential facility or group home and the local board shall include an agreement not to use corporal punishment or give others permission to do so. For purposes of this section, "corporal punishment" means the infliction of, or causing the infliction of, pain or discomfort. Prohibited actions include, but are not limited to, hitting with any part of the body or with an implement, pinching, pulling, shaking, binding a child, forcing a child to assume an uncomfortable position, or locking a child in a room or closet. This prohibition on corporal punishment*

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59 *shall exist whether punishment is spontaneous or a deliberate technique for effecting behavioral change*  
60 *or part of a behavior management program.*

61 No child shall be placed in any foster care placement outside this Commonwealth by a local board  
62 without first complying with the appropriate provisions of Chapter 10.1 (§ 63.1-219.1 et seq.) of this  
63 title or without first obtaining the consent of the Commissioner, given in accordance with regulations  
64 prescribed by the State Board. The local board shall also comply with all regulations of the State Board  
65 relating to resident children placed out of the Commonwealth. The State Board is authorized to prescribe  
66 such regulations for the placement of children out of the Commonwealth by local boards as are  
67 reasonably conducive to the welfare of such children and as comply with the Interstate Compact on the  
68 Placement of Children (§ 63.1-219.1 et seq.). Notwithstanding the provisions of Article II (d) of the  
69 compact which exclude from the definition of "placement" those institutions that care for the mentally  
70 ill, mentally defective or epileptic or any institution primarily educational in character and any hospital  
71 or other medical facility, the State Board shall prescribe procedures and regulations to govern such  
72 placements out of the Commonwealth by local boards. The placement of a child in a foster home,  
73 whether within or without the Commonwealth, shall not be for the purpose of adoption unless the  
74 placement agreement between the foster parents and the local board specifically so stipulates.

75 A parent who has not reached the age of eighteen shall have legal capacity to execute an entrustment  
76 agreement including an agreement which provides for the termination of all parental rights and  
77 responsibilities with respect to the child and shall be as fully bound thereby as if the parent had attained  
78 the age of eighteen years.

79 § 63.1-205. Where child-placing agencies may place children; investigation and visitation;  
80 supervision.

81 A. Any licensed child-placing agency may place or negotiate and arrange for the placement of  
82 children in any licensed child caring institution, and, unless its license contains a limitation to the  
83 contrary, a licensed child-placing agency may also place or arrange for the placement of such persons in  
84 any suitable foster home or independent living placement.

85 B. Before placing or arranging for the placement of any such child in a foster home or independent  
86 living placement the agency shall cause a careful study to be made to determine the suitability of such  
87 home or independent placement, and after placement shall cause such home or independent placement  
88 and child to be visited as often as necessary to protect the interests of such child.

89 C. Every child-placing agency which places a child in a foster home or independent living placement  
90 shall maintain such supervision over such home or independent living placement as shall be required by  
91 the standards and policies established by the Board.

92 D. *The licensed child-placing agency shall have a written agreement with any foster home,*  
93 *child-caring institution, residential facility or group home that shall include an agreement not to use*  
94 *corporal punishment or give others permission to do so. For purposes of this section, "corporal*  
95 *punishment" means the infliction of, or causing the infliction of, pain or discomfort. Prohibited actions*  
96 *include, but are not limited to, hitting with any part of the body or with an implement, pinching, pulling,*  
97 *shaking, binding a child, forcing a child to assume an uncomfortable position, or locking a child in a*  
98 *room or closet. This prohibition on corporal punishment shall exist whether punishment is spontaneous*  
99 *or a deliberate technique for effecting behavioral change or part of a behavior management program.*