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SENATE BILL NO. 62

Offered January 14, 2004

Prefiled December 29, 2003

A BILL to amend and reenact §§ 63.2-1200 and 63.2-1222 of the Code of Virginia, relating to child-placing agencies outside the Commonwealth.

Patrons—Edwards and Mims

Referred to Committee on Rehabilitation and Social Services

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1200 and 63.2-1222 of the Code of Virginia are amended and reenacted as follows:
 § 63.2-1200. Who may place children for adoption; requirement for agencies outside the Commonwealth.

A child may be placed for adoption by:

1. A licensed child-placing agency;
2. A local board;

3. The child's parent or legal guardian if the placement is a parental placement; and

4. Any agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; *however, when any such agency outside the Commonwealth, or its agent, executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to a child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. Any entrustment agreement that fails to follow such requirements shall be void.*

§ 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and objection to entrustment; copy required to be furnished; requirement for agencies outside the Commonwealth.

For the purposes of this section, a birth parent who is less than eighteen years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement that provides for the termination of all parental rights and responsibilities, and shall be as fully bound thereby as if such birth parent had attained the age of eighteen years.

An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born out of wedlock if the identity of the birth father is not reasonably ascertainable, or if such birth father is given notice of the entrustment by registered or certified mail to his last known address and fails to object to the entrustment within twenty-one days of the mailing of such notice. Such objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the agency that mailed the notice of entrustment within the time period specified in § 63.2-1223. An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the birth mother and the birth father.

An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63 or subsection B of § 18.2-366, and the child was conceived as a result of such violation.

A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. Any entrustment agreement that fails to follow such procedures shall be void.

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