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HOUSE BILL NO. 3

Offered January 9, 2008

Prefiled November 19, 2007

A BILL to amend and reenact § 63.2-1505 of the Code of Virginia, and to amend the Code of Virginia by adding in Chapter 17 of Title 63.2 an article numbered 3.1, consisting of sections numbered 63.2-1727.1 through 63.2-1727.4, relating to the Child Care Provider Registry.

Patrons—Tata, Amundson, Armstrong, Fralin, Iaquinto and Miller, P.J.

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1505 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 17 of Title 63.2 an article numbered 3.1, consisting of sections numbered 63.2-1727.1 through 63.2-1727.4, as follows:

§ 63.2-1505. Investigations by local departments.

A. An investigation requires the collection of information necessary to determine:

1. The immediate safety needs of the child;
2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

B. If the local department responds to the report or complaint by conducting an investigation, the local department shall:

1. Make immediate investigation and, if the report or complaint was based upon one of the factors specified in subsection B of § 63.2-1509, the local department may file a petition pursuant to § 16.1-241.3;

2. Complete a report and transmit it forthwith to the Department, except that no such report shall be transmitted in cases in which the cause to suspect abuse or neglect is one of the factors specified in subsection B of § 63.2-1509 and the mother sought substance abuse counseling or treatment prior to the child's birth;

3. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and his family;

4. Petition the court for services deemed necessary including, but not limited to, removal of the child or his siblings from their home;

5. Determine within 45 days if a report of abuse or neglect is founded or unfounded and transmit a report to such effect to the Department and to the person who is the subject of the investigation. However, upon written justification by the local department, such determination may be extended, not to exceed a total of 60 days. If through the exercise of reasonable diligence the local department is unable to find the child who is the subject of the report, the time the child cannot be found shall not be computed as part of the 45-day or 60-day period and documentation of such reasonable diligence shall be placed in the record; ~~and~~

6. If a report of abuse or neglect is unfounded, transmit a report to such effect to the complainant and parent or guardian and the person responsible for the care of the child in those cases where such person was suspected of abuse or neglect; *and*

7. *If a report of abuse or neglect is founded, transmit a report to such effect to the Department. Upon receipt of such report, the Department shall update the Virginia Child Care Provider Registry to reflect the finding of a founded complaint of abuse or neglect by removing the name of the person who is the subject of the founded complaint of abuse or neglect from Registry.*

C. Each local board may obtain and consider, in accordance with regulations adopted by the Board, statewide criminal history record information from the Central Criminal Records Exchange and results of a search of the child abuse and neglect central registry of any individual who is the subject of a child abuse or neglect investigation conducted under this section when there is evidence of child abuse or neglect and the local board is evaluating the safety of the home and whether removal will protect a child from harm. The local board also may obtain such a criminal records or registry search on all adult

INTRODUCED

HB3

59 household members residing in the home where the individual who is the subject of the investigation
60 resides and the child resides or visits. If a child abuse or neglect petition is filed in connection with
61 such removal, a court may admit such information as evidence. Where the individual who is the subject
62 of such information contests its accuracy through testimony under oath in hearing before the court, no
63 court shall receive or consider the contested criminal history record information without certified copies
64 of conviction. Further dissemination of the information provided to the local board is prohibited, except
65 as authorized by law.

66 *Article 3.1.*

67 *Virginia Child Care Provider Registry.*

68 *§ 63.2-1727.1. Virginia Child Care Provider Registry created.*

69 *The Virginia Child Care Provider Registry (the Registry) is established in the Department of Social*
70 *Services. Individuals who wish to offer their services as child care providers in the Commonwealth, and*
71 *who are not required to be licensed pursuant to this chapter, may voluntarily apply to be registered*
72 *with the Registry and may authorize the Department to disclose information contained in the Registry, in*
73 *accordance with this article.*

74 *§ 63.2-1727.2. Duties of the Department.*

75 *A. The Department shall establish and maintain the Registry and adopt rules and regulations to*
76 *carry out the provisions of this article. The Registry shall contain only the names of applicants who are*
77 *found to have (i) no founded complaints of child abuse or neglect and (ii) no convictions for the barrier*
78 *crimes listed in § 63.2-1719.*

79 *B. Upon receipt of notice of a founded complaint of child abuse or neglect pursuant to subdivision B*
80 *of § 63.2-1505, the Department shall promptly remove the name of the subject of the complaint from*
81 *the Registry.*

82 *C. The Department shall assess a fee sufficient to cover the cost of reviewing and processing the*
83 *application, which shall be deposited in the Child Care Provider Registry Fund established in*
84 *§ 63.2-1727.4.*

85 *§ 63.2-1727.3. Registration; form; required information; criminal history background check; penalty.*

86 *A. As used in this article, "child care provider" means any provider of care to children under the*
87 *age of 13, in the residence of the provider or the home of any of the children in care, exclusive of the*
88 *provider's own children or any children who reside in the home, when at least one child receives care*
89 *for compensation.*

90 *B. Any individual who is (i) 18 years of age or older and (ii) a citizen of the United States or a*
91 *resident alien may apply to be registered with the Registry.*

92 *C. The Department shall prepare and the applicant shall submit an application form that shall*
93 *include (i) the applicant's current name and any other name by which the applicant was known; (ii) the*
94 *applicant's address and telephone number; (iii) the applicant's date of birth; and (iv) the applicant's*
95 *social security number. The application form shall be signed by the applicant. Any false statement in the*
96 *application form, if such statement is knowingly or willfully made, shall be a ground for prosecution of*
97 *perjury as provided for in § 18.2-434.*

98 *Upon receipt of the application form, the Department shall conduct a search of the records*
99 *contained in the central registry maintained pursuant to § 63.2-1515 and shall maintain the results of*
100 *such search in the Registration database.*

101 *D. Applicants shall submit to fingerprinting and shall provide other personal descriptive information*
102 *required by the Department, to be forwarded along with the applicant's fingerprints through the Central*
103 *Criminal Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a*
104 *national criminal history record information check regarding the applicant. The Central Criminal*
105 *Records Exchange shall, upon receipt of an applicant's record or notification that no record exists,*
106 *make a report to the Department that the applicant meets the criteria or does not meet the criteria for*
107 *registration based on whether or not the applicant has ever been convicted of any offense set forth in*
108 *§ 63.2-1719 or an equivalent offense in another state. The Central Criminal Records Exchange shall not*
109 *disclose information to the Department regarding charges or convictions of any crimes. If any applicant*
110 *is denied registration because of information appearing on the criminal history record and the applicant*
111 *disputes the information upon which the denial was based, the Central Criminal Records Exchange*
112 *shall, upon request, furnish the applicant the procedures for obtaining a copy of the national criminal*
113 *history record from the Central Criminal Records Exchange or the Federal Bureau of Investigation. The*
114 *information provided to the Department shall not be disseminated except as provided in this section.*

115 *E. An applicant may withdraw from the Registry at any time by submitting a notarized affidavit to*
116 *that effect to the Department.*

117 *§ 63.2-1727.4. Virginia Child Care Provider Registry Fund.*

118 *There is hereby created in the state treasury a special nonreverting fund to be known as the Virginia*
119 *Child Care Provider Registry Fund, hereafter referred to as "the Fund." The Fund shall be established*
120 *on the books of the Comptroller. All registration fees collected by the Department pursuant to*

121 § 63.2-1727.2 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys
122 in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund,
123 including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall
124 remain in the Fund. Moneys in the Fund shall be used solely for the purposes of the administration of
125 the Virginia Child Care Provider Registry. Expenditures and disbursements from the Fund shall be
126 made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the
127 Commissioner.

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HB3