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HOUSE BILL NO. 1133

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on January 28, 2010)

(Patron Prior to Substitute—Delegate Keam)

A BILL to amend and reenact §§ 63.2-903 and 63.2-1224 of the Code of Virginia, relating to entrustment agreements.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-903 and 63.2-1224 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-903. Entrustment agreements; adoption.

A. Whenever a local board accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § 63.2-900, or a licensed child-placing agency accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § 63.2-1817, in the city or county juvenile and domestic relations district court a petition for approval of the entrustment agreement (i) shall be filed within a reasonable period of time, not to exceed 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to his home within that period; and (ii) shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 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.

B. Whenever a local board accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § 63.2-900, or a licensed child-placing agency accepts custody of a child pursuant to an entrustment agreement entered into under the authority of § 63.2-1817, and the entrustment agreement provides for the termination of all parental rights and responsibilities with respect to the child, the local board or child-placing agency may file a petition for approval of the entrustment agreement in the city or county juvenile and domestic relations district court. A local board or child-placing agency accepting custody of a child pursuant to an entrustment agreement terminating parental rights and responsibilities with respect to the child that meets the requirements set forth in §§ 63.2-1221 and 63.2-1222 may place the child for adoption in accordance with the provisions of Chapter 12 (§ 63.2-1200 et seq.).

C. For purposes of §§ 63.2-900, 63.2-1817 and this section, a parent who is less than 18 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 parent had attained the age of 18 years. An entrustment agreement for the termination of all parental rights and responsibilities shall be executed in writing and notarized. 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 father of a child born out of wedlock if the identity of the father is not reasonably ascertainable, or if such 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 15 days of mailing of such notice. An affidavit of the mother that the identity of the 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 father is reasonably ascertainable. For purposes of determining whether the identity of the 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 mother and the father.

~~C.D.~~ D. An entrustment agreement for the termination of 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 such father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

~~D.E.~~ E. A child may be placed for adoption by a licensed child-placing agency or a local board, in accordance with the provisions of § 63.2-1221.

§ 63.2-1224. Explanation of process, legal effects of adoption required.

Prior to the placement of a child for adoption, the licensed child-placing agency or local board having custody of the child shall ~~counsel provide, both orally and in writing, an explanation of the adoption process, the legal effects of adoption, and the alternatives to adoption to the birth mother or~~ and, if reasonably available, ~~both birth parents, concerning the disposition of their child the birth father~~

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60 *who is an acknowledged father pursuant to § 20-49.1, an adjudicated father pursuant to § 20-49.8, a*
61 *presumed father pursuant to § 63.2-1202, or a putative father who has registered with the Putative*
62 *Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter.*