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HOUSE BILL NO. 411

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Health, Welfare and Institutions
on February 9, 2010)

(Patron Prior to Substitute—Delegate Oder)

A BILL to amend and reenact §§ 63.2-900, 63.2-1231, 63.2-1700, and 63.2-1737 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 2 of Title 63.2 a section numbered 63.2-214.2, relating to shaken baby syndrome; distribution of information.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-900, 63.2-1231, 63.2-1700, and 63.2-1737 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 2 of Title 63.2 a section numbered 63.2-214.2 as follows:

§ 63.2-214.2. Information related to shaken baby syndrome.

The Department shall make information about shaken baby syndrome, its effects, and resources for help and support for caretakers in a printable format, and information about how to acquire information about shaken baby syndrome and its effects in an audiovisual format, available to the public on its website. Such information shall be provided to every child welfare program required to be licensed by the Department at the time of initial licensure and upon request. The Department shall also make the information required in this section available to foster and adoptive parents and other persons, upon request.

§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.

A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable family homes, children's residential facilities or independent living arrangements, subject to the supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons under 18 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 Board shall adopt 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 that shall achieve, as quickly as practicable, permanent placements for such children. The Board shall also approve in foster care policy the language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the agreement. The local board shall first seek out kinship care options to keep children out of foster care and as a placement option for those children in foster care, if it is in the child's best interest, pursuant to § 63.2-900.1.

The local board shall, in accordance with the regulations adopted by the 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 18 years of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

B. Prior to the approval of any family for placement of a child, a home study shall be completed and the prospective foster or adoptive parents shall be informed that information about shaken baby syndrome, its effects, and resources for help and support for caretakers is available on a website maintained by the Department as prescribed in regulations adopted by the Board.

C. Prior to placing any such child in any foster home or children's residential facility, the local board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902.

60 However, if a child is placed in a children's residential facility licensed as a temporary emergency
61 shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the
62 facility, the written agreement does not need to be entered into prior to placement, but shall be
63 completed and signed by the local board and the facility representative within 24 hours of the child's
64 arrival or by the end of the next business day after the child's arrival.

65 D. Within 72 hours of placing a child of school age in a foster care placement, as defined in
66 § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the
67 principal of the school in which the student is to be enrolled and the superintendent of the relevant
68 school division or his designee of such placement, and (ii) inform the principal of the status of the
69 parental rights.

70 If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or
71 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services
72 agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster
73 child within 30 days after the child's enrollment.

74 § 63.2-1231. Home study; meeting required; exception.

75 A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of
76 the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency *and the*
77 *prospective adoptive parents shall be informed that information about shaken baby syndrome, its effects,*
78 *and resources for help and support for caretakers is available on a website maintained by the*
79 *Department* in accordance with regulations adopted by the Board. The home study shall make inquiry as
80 to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory
81 physical and mental health to enable them to care for the child; (ii) the physical and mental condition of
82 the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the
83 home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective
84 adoptive family or in their behalf in the placement and adoption of the child; (v) whether the
85 requirements of subdivisions A 1, A 2, A 3, and A 5 of § 63.2-1232 have been met; and (vi) any other
86 matters specified by the circuit court. In the course of the home study, the agency social worker shall
87 meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon
88 agreement of both parties, such meetings may occur simultaneously or separately.

89 B. Any home study conducted pursuant to this section for the purpose of parental placement or
90 agency placement shall be valid for a period of 36 months from the date of completion of the study.
91 However, the Board may, by regulation, require an additional state criminal background check before
92 finalizing an adoption if more than 18 months have passed from the completion of the home study.

93 § 63.2-1700. Application fees; regulations and schedules; use of fees; certain facilities, centers and
94 agencies exempt.

95 The Board is authorized to adopt regulations and schedules for fees to be charged for processing
96 applications for licenses to operate assisted living facilities, adult day care centers and child welfare
97 agencies. Such schedules shall specify minimum and maximum fees and, where appropriate, gradations
98 based on the capacity of such facilities, centers and agencies. Fees shall be used for the development
99 and delivery of training for operators and staff of facilities, centers and agencies. Fees shall be expended
100 for this purpose within two fiscal years following the fiscal year in which they are collected. These fees
101 shall not be applicable to facilities, centers or agencies operated by federal entities.

102 The Board, in consultation with the Child Day-Care Council, shall develop training programs for
103 operators and staffs of licensed child day programs. Such programs shall include formal and informal
104 training offered by institutions of higher education, state and national associations representing child care
105 professionals, local and regional early childhood educational organizations and licensed child care
106 providers. *Training provided to operators and staffs of licensed child day programs shall include*
107 *training and information regarding shaken baby syndrome, its effects, and resources for help and*
108 *support for caretakers.* To the maximum extent possible, the Board shall ensure that all provider
109 interests are represented and that no single approach to training shall be given preference.

110 § 63.2-1737. Licensure of group homes and residential facilities for children.

111 A. Notwithstanding any other provisions of this subtitle, the Department shall cooperate with other
112 state departments in fulfilling their respective licensing and certification responsibilities of children's
113 residential facilities. The Board shall adopt regulations establishing the Department as the single
114 licensing agency for the regulation of children's residential facilities, including group homes, which
115 provide social services programs, with the exception of educational programs licensed by the Department
116 of Education and facilities regulated by the Department of Juvenile Justice. Notwithstanding any other
117 provisions of this chapter, licenses issued to children's residential facilities may be issued for periods of
118 up to 36 successive months.

119 B. The Board's regulations for the regulation of children's residential facilities shall address the
120 services required to be provided in such facilities as it may deem appropriate to ensure the health and
121 safety of the children. In addition, the Board's regulations shall include, but shall not be limited to (i)

specifications for the structure and accommodations of such facilities according to the needs of the children; (ii) rules concerning allowable activities, local government- and facility-imposed curfews, and study, recreational, and bedtime hours; and (iii) a requirement that each facility have a community liaison who shall be responsible for facilitating cooperative relationships with the neighbors, the school system, local law enforcement, local government officials, and the community at large.

C. Notwithstanding any other provisions of this chapter, any facility licensed by the Commissioner as a child-caring institution as of January 1, 1987, and that receives no public funds shall be licensed under minimum standards for licensed child-caring institutions as adopted by the Board and in effect on January 1, 1987. Effective January 1, 1987, all children's residential facilities shall be licensed under the regulations for children's residential facilities.

D. Pursuant to the procedures set forth in subsection E and in addition to the authority for other disciplinary actions provided in this title, the Commissioner may issue a summary order of suspension of the license of any group home or residential facility for children, in conjunction with any proceeding for revocation, denial, or other action, when conditions or practices exist in the home or facility that pose an immediate and substantial threat to the health, safety, and welfare of the children who are residents and the Commissioner believes the operation of the home or facility should be suspended during the pendency of such proceeding.

E. The summary order of suspension shall take effect upon its issuance and shall be served on the licensee or its designee as soon as practicable thereafter by personal service and certified mail, return receipt requested, to the address of record of the licensee. The order shall state the time, date, and location of a hearing to determine whether the suspension is appropriate. Such hearing shall be held no later than three business days after the issuance of the summary order of suspension and shall be convened by the Commissioner or his designee.

After such hearing, the Commissioner may issue a final order of summary suspension or may find that such summary suspension is not warranted by the facts and circumstances presented. A final order of summary suspension shall include notice that the licensee may appeal the Commissioner's decision to the appropriate circuit court no later than 10 days following issuance of the order. The sole issue before the court shall be whether the Commissioner had reasonable grounds to require the licensee to cease operations during the pendency of the concurrent revocation, denial, or other proceeding. The concurrent revocation, denial, or other proceeding shall not be affected by the outcome of any hearing on the appropriateness of the summary suspension.

The willful and material failure to comply with the summary order of suspension or final order of summary suspension shall be punishable as a Class 2 misdemeanor. The Commissioner may require the cooperation of any other agency or subdivision of the Commonwealth in the relocation of children who are residents of a home or facility whose license has been summarily suspended pursuant to this section and in any other actions necessary to reduce the risk of further harm to such residents.

F. In addition to the requirements set forth in subsection B, the Board's regulations shall require, as a condition of initial licensure or, if appropriate, license renewal, that the applicant shall: (i) be personally interviewed by Department personnel to determine the qualifications of the owner or operator before granting an initial license; (ii) provide evidence of having relevant prior experience before any initial license is granted; (iii) provide, as a condition of initial license or renewal licensure, evidence of staff participation in training on appropriate siting of the residential facilities for children, good neighbor policies, ~~and~~ community relations, *and shaken baby syndrome and its effects*; and (iv) be required to screen residents prior to admission to exclude individuals with behavioral issues, such as histories of violence, that cannot be managed in the relevant residential facility.

G. In addition, the Department shall:

1. Notify relevant local governments and placing and funding agencies, including the Office of Comprehensive Services, of multiple health and safety or human rights violations in residential facilities for which the Department serves as lead licensure agency when such violations result in the lowering of the licensure status of the facility to provisional;

2. Post on the Department's website information concerning the application for initial licensure or renewal, denial, or provisional licensure of any residential facility for children located in the locality;

3. Require all licensees to self-report lawsuits against or settlements with residential facility operators relating to the health and safety or human rights of residents and any criminal charges that may have been made relating to the health and safety or human rights of residents;

4. Require proof of contractual agreements or staff expertise to provide educational services, counseling services, psychological services, medical services, or any other services needed to serve the residents in accordance with the facility's operational plan;

5. Disseminate to local governments, or post on the Department's website, an accurate (updated weekly or monthly as necessary) list of licensed and operating group homes and other residential facilities for children by locality with information on services and identification of the lead licensure

183 agency; and
184 6. Modify the term of the license at any time during the term of the license based on a change in
185 compliance.