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HOUSE BILL NO. 749

House Amendments in [] - February 1, 2010

A *BILL to amend and reenact § 63.2-1232 of the Code of Virginia, relating to consent to parental placement adoption; out-of-state placement.*

Patron Prior to Engrossment—Delegate Toscano

Referred to Committee on Health, Welfare and Institutions

Be it enacted by the General Assembly of Virginia:**1. That § 63.2-1232 of the Code of Virginia is amended and reenacted as follows:**

§ 63.2-1232. Requirements of a parental placement adoption.

A. The juvenile and domestic relations district court shall not accept consent until it determines that: 1. The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced.

2. A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption.

3. The birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses.

4. Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists.

5. There has been no violation of the provisions of § 63.2-1218 in connection with the placement; however, if it appears there has been such violation, the court shall not reject consent of the birth parent to the adoption for that reason alone but shall report the alleged violation as required by § 63.2-1219.

6. A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with regulations established by the Board and has provided to the court a report of such home study, which shall contain the agency's recommendation regarding the suitability of the placement. A married couple or an unmarried individual shall be eligible to receive placement of a child for adoption.

7. The birth parent(s) have been informed of their opportunity to be represented by legal counsel.

B. The juvenile and domestic relations district court shall not accept the consent if the requirements of subsection A have not been met. In such cases, it shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation in accordance with §§ 63.2-1208 and 63.2-1238. If the juvenile and domestic relations district court determines that any of the parties is financially unable to obtain the required services, it shall refer the matter to the local director.

C. *In cases in which a birth parent who resides in the Commonwealth places his child for adoption with adoptive parents in another state and the laws of that receiving state govern the proceeding for adoption, the birth parent may elect to waive the execution of consent pursuant to 63.2-1233 and instead execute consent to the adoption pursuant to the laws of the receiving state. Any waiver of consent made pursuant to this subsection shall be made under oath and in writing, and shall expressly state that the birth parent has received independent legal counsel [from an attorney licensed in the Commonwealth of Virginia] advising him of the laws of the Commonwealth, the laws of the receiving state pursuant to which he elects to consent to the adoption, and the effects of his waiver of consent pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state. Any waiver of consent and election to consent pursuant to the laws of a receiving state shall include the name, address, and telephone number of such legal counsel. Failure to comply with this section shall render a waiver of consent § 63.2-1233 and election to consent pursuant to the laws of the receiving state as authorized by this subsection invalid.*

ENGROSSED

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