

VIRGINIA ACTS OF ASSEMBLY -- 2017 SESSION

CHAPTER 193

An Act to amend and reenact §§ 63.2-900, 63.2-904, 63.2-1231, and 63.2-1232 of the Code of Virginia, relating to Adoption and Foster Care placements; Mutual Family Assessment home study.

[H 1795]

Approved February 23, 2017

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-900, 63.2-904, 63.2-1231, and 63.2-1232 of the Code of Virginia are amended and reenacted as follows:

§ 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 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 interests, pursuant to § 63.2-900.1. In cases in which a child cannot be returned to his prior family or placed for adoption and kinship care is not currently in the best interests of the child, the local board shall consider the placement and services that afford the best alternative for protecting the child's welfare. Placements may include but are not limited to family foster care, treatment foster care and residential care. Services may include but are not limited to assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other community-based services. 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.

Within 30 days of accepting for foster care placement a person under 18 years of age whose father is unknown, the local board shall request a search of the Putative Father Registry established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has registered as the putative father of the child. If the search results indicate that a man has registered as the putative father of the child, the local board shall contact the man to begin the process to determine paternity.

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. *Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.*

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

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

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

§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living arrangement; removal of child.

A. Before placing or arranging for the placement of any such child in a foster home or independent living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made to determine the suitability of such home or independent living arrangement, and after placement shall cause such home or independent living arrangement and child to be visited as often as necessary to protect the interests of such child. *Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department.*

B. Every local board or licensed child-placing agency that places a child in a foster home or independent living arrangement shall maintain such supervision over such home or independent living arrangement as shall be required by the standards and policies established by the Board.

C. Whenever any child placed by a local board or licensed child-placing agency and still under its control or supervision is subject, in the home in which he is placed, to unwholesome influences or to neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall cause the child to be removed from such home and shall make for him such arrangements as may be approved by the Commissioner.

D. Consistent with the reasonable and prudent parent standard defined in 42 U.S.C. § 675(10)(A), caregivers for children in foster care shall support normalcy for such children. The Board shall adopt regulations to assist local boards and licensed child-placing agencies in carrying out practices that support careful and sensible parental decisions that maintain the health, safety, and best interest of the child while at the same time encouraging his emotional and developmental growth.

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

A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency and the prospective 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 in accordance with regulations adopted by the Board. *The Home studies by local boards shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. All home study studies conducted pursuant to this section, whether by a local board or a child-placing agency, shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, A 2, A 3, and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker, family-services specialist, or other qualified equivalent worker shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings may occur simultaneously or separately.*

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

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

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, in the case of home studies by local boards, in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department*, 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 pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state as authorized by this subsection invalid.

D. When consent to a parental placement adoption is sought pursuant to this article and the prospective adoptive parent(s) have had continuous physical and legal custody of the child for five or more years, the juvenile and domestic relations district court may, in its discretion, accept consent without (i) a home study as required by subsection A of § 63.2-1231 and subdivision A 6 of this section and (ii) the meeting and counseling requirements, as they relate to the prospective adoptive parent(s), listed in subsection A of § 63.2-1231 and subdivision A 2 of this section. All other provisions of the parental placement adoption statutes shall apply.

2. That the Department of Social Services is authorized to amend or update its Mutual Family Assessment home study template and any addenda thereto when necessary to improve the process of adoptive and foster placements, provided such amendments or updates do not lessen the requirements of the home study process.