

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 63.2-900 and 63.2-1208 of the Code of Virginia, relating to foster care and adoption; disclosure of information prior to placement.

[H 986]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-900 and 63.2-1208 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 Virginia Birth 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

57 any addenda thereto developed by the Department.

58 C. Prior to placing any such child in any foster home or children's residential facility, the local board
 59 shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate
 60 custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902.
 61 However, if a child is placed in a children's residential facility licensed as a temporary emergency
 62 shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the
 63 facility, the written agreement does not need to be entered into prior to placement, but shall be
 64 completed and signed by the local board and the facility representative within 24 hours of the child's
 65 arrival or by the end of the next business day after the child's arrival.

66 *Agreements entered into pursuant to this subsection shall include a statement by the local board that*
 67 *all reasonably ascertainable background, medical, and psychological records of the child, including*
 68 *whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been*
 69 *provided to the foster home or children's residential facility.*

70 D. Within 72 hours of placing a child of school age in a foster care placement, as defined in
 71 § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the
 72 principal of the school in which the student is to be enrolled and the superintendent of the relevant
 73 school division or his designee of such placement, and (ii) inform the principal of the status of the
 74 parental rights.

75 If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or
 76 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services
 77 agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster
 78 child within 30 days after the child's enrollment.

79 **§ 63.2-1208. Investigations; report to circuit court.**

80 A. Upon consideration of the petition, the circuit court shall, upon being satisfied as to proper
 81 jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to
 82 conduct an investigation and prepare a report unless no investigation is required pursuant to this chapter.
 83 The court shall enter the order of reference prior to or concurrently with the entering of an order of
 84 publication, if such is necessary. Upon entry of the order of reference, the clerk shall forward a copy of
 85 the order of reference, the petition, and all exhibits thereto to the Commissioner and the child-placing
 86 agency retained to provide investigative, reporting, and supervisory services. If no Virginia agency was
 87 retained to provide such services, the order of reference, petition, and all exhibits shall be forwarded to
 88 the local director of social services of the locality where the petitioners reside or resided at the time of
 89 filing the petition or had legal residence at the time the petition was filed.

90 B. Upon receiving a petition and order of reference from the circuit court, the applicable agency shall
 91 make a thorough investigation of the matter and report thereon in writing, in such form as the
 92 Commissioner may prescribe, to the circuit court within 60 days after the copy of the petition and all
 93 exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the
 94 Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the
 95 circuit court. On the report to the circuit court there shall be appended either acceptance of service or
 96 certificate of the local director, or the representative of the child-placing agency, that copies were served
 97 as this section requires, showing the date of delivery or mailing. The circuit court shall expeditiously
 98 consider the merits of the petition upon receipt of the report.

99 C. If the report is not made to the circuit court within the periods specified, the circuit court may
 100 proceed to hear and determine the merits of the petition and enter such order or orders as the circuit
 101 court may deem appropriate.

102 D. The investigation requested by the circuit court shall include, in addition to other inquiries that
 103 the circuit court may require the child-placing agency or local director to make, inquiries as to (i)
 104 whether the petitioner is financially able, except as provided in Chapter 13 (§ 63.2-1300 et seq.) of this
 105 title, morally suitable, in satisfactory physical and mental health and a proper person to care for and to
 106 train the child; (ii) what the physical and mental condition of the child is; (iii) why the parents, if living,
 107 desire to be relieved of the responsibility for the custody, care, and maintenance of the child, and what
 108 their attitude is toward the proposed adoption; (iv) whether the parents have abandoned the child or are
 109 morally unfit to have custody over him; (v) the circumstances under which the child came to live, and is
 110 living, in the physical custody of the petitioner; (vi) whether the child is a suitable child for adoption by
 111 the petitioner; (vii) what fees have been paid by the petitioners or on their behalf to persons or agencies
 112 that have assisted them in obtaining the child; and (viii) whether the requirements of subsections E and
 113 F have been met. Any report made to the circuit court shall include a recommendation as to the action
 114 to be taken by the circuit court on the petition. A copy of any report made to the circuit court shall be
 115 furnished to counsel of record representing the adopting parent or parents. When the investigation
 116 reveals that there may have been a violation of § 63.2-1200 or § 63.2-1218, the local director or
 117 child-placing agency shall so inform the circuit court and the Commissioner.

118 E. The report shall include the relevant physical and mental history of the birth parents if known to
119 the person making the report. The child-placing agency or local director shall document in the report all
120 efforts they made to encourage birth parents to share information related to their physical and mental
121 history. However, nothing in this subsection shall require that an investigation of the physical and
122 mental history of the birth parents be made.

123 F. The report shall include a statement by the child-placing agency or local director that all
124 reasonably ascertainable background, medical, and psychological records of the child, *including whether*
125 *the child has been the subject of an investigation as the perpetrator of sexual abuse*, have been provided
126 to the prospective adoptive parent(s). The report also shall include a list of such records provided.

127 G. If the specific provisions set out in §§ 63.2-1228, 63.2-1238, 63.2-1242 and 63.2-1244 do not
128 apply, the petition and all exhibits shall be forwarded to the local director where the petitioners reside or
129 to a licensed child-placing agency.