

VIRGINIA ACTS OF ASSEMBLY -- 2023 SESSION

CHAPTER 340

An Act to amend and reenact §§ 63.2-900, as it is currently effective and as it shall become effective, 63.2-904, 63.2-1231, and 63.2-1734 of the Code of Virginia, relating to adoption and foster care; home study reciprocity.

[H 1744]

Approved March 23, 2023

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-900, as it is currently effective and as it shall become effective, 63.2-904, 63.2-1231, and 63.2-1734 of the Code of Virginia are amended and reenacted as follows:

§ 63.2-900. (Effective until date pursuant to Va. Const., Art. IV, § 13) 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 and licensed child-placing agencies shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.*

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.

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

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.

E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.

§ 63.2-900. (Effective pursuant to Va. Const., Art. IV, § 13) 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; however, the local board shall seek to place the child with a foster family within the locality of the local board or a nearby locality through the collaborative local board placement program set forth in subsection F, provided that such placement is in the best interests of the child. 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 *or licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.*

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.

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

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.

E. Every local board shall submit to the Department through its statewide automated system the names of all foster parents licensed to provide foster care services in the locality served by the local board and update such list quarterly.

F. The Department shall establish and implement a collaborative local board placement program to increase kinship placements and the number of locally approved foster homes. Such program shall require local boards within each Department of Social Services region to work collaboratively to (i) facilitate approval of kinship foster parents through engagement, assessment, and training and (ii) expand the pool of available foster homes within and across the localities of such local boards.

§ 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 *or licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation*

other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective foster parent, subject to any time limitations or other requirements imposed by law or regulation.

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. Notwithstanding any other provision of law, the Commissioner shall have the authority to place, remove, or direct the placement or removal of any child who is under the supervision and control of a local board or licensed child-placing agency. Pursuant to such authority, the Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-placing agency in a foster home or children's residential facility that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.

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. Home studies by local boards *or licensed child-placing agencies* shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. *All home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective adoptive parent, subject to any time limitations set forth in subsection B and any other requirements imposed by law or regulation.*

All home 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.

§ 63.2-1734. Regulations for child welfare agencies.

A. The Board shall adopt regulations for the activities, services, and facilities to be employed by persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that such activities, services, and facilities are conducive to the welfare of the children under the custody or control of such persons or agencies.

B. Such regulations shall be developed in consultation with representatives of the affected entities and shall include, but need not be limited to, matters relating to the sex, age, and number of children and other persons to be maintained, cared for, or placed out, as the case may be, and to the buildings and premises to be used, and reasonable standards for the activities, services, and facilities to be employed. Such limitations and standards shall be specified in each license and renewal thereof. Such regulations shall not require the adoption of a specific teaching approach or doctrine or require the membership, affiliation, or accreditation services of any single private accreditation or certification agency.

C. *All home studies of prospective adoptive parents by local boards or child-placing agencies*

licensed for adoption services shall be conducted in accordance with the Mutual Family Assessment home study template and any addenda thereto developed by the Department. Such home studies, including all related approval documentation other than background checks, conducted pursuant to this section, whether by a local board or a licensed child-placing agency, shall be transferable between all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request of the prospective adoptive parent, subject to any time limitations or other requirements imposed by law or regulation.

2. That the provisions of the first enactment of this act shall become effective on January 1, 2024.

3. That the State Board of Social Services (the Board) shall promulgate regulations to implement the provisions of this act, including regulations that establish market rates for home studies conducted by local boards of social services or licensed child-placing agencies for the purpose of foster care, independent living arrangements, or adoption placements. The Board's initial adoption of regulations to implement the provisions of this act shall be exempt from the provisions of the Administrative Process Act (§ 2.2-4000 et seq.).