

1 HOUSE BILL NO. 1744

2 AMENDMENT IN THE NATURE OF A SUBSTITUTE

3 (Proposed by the House Committee on Health, Welfare and Institutions

4 on January 24, 2023)

5 (Patron Prior to Substitute--Delegate Carr)

6 A BILL to amend and reenact §§ 63.2-900, as it is currently effective and as it shall become effective,
7 63.2-904, 63.2-1231, and 63.2-1734 of the Code of Virginia, relating to adoption and foster care;
8 home study reciprocity.

9 **Be it enacted by the General Assembly of Virginia:**

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

12 **§ 63.2-900. (Effective until date pursuant to Va. Const., Art. IV, § 13) Accepting children for**
13 **placement in homes, facilities, etc., by local boards.**

14 A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable
15 family homes, children's residential facilities or independent living arrangements, subject to the
16 supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons
17 under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court
18 of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians
19 where legal custody remains with the parent, parents, or guardians.

20 The Board shall adopt regulations for the provision of foster care services by local boards, which
21 shall be directed toward the prevention of unnecessary foster care placements and towards the immediate
22 care of and permanent planning for children in the custody of or placed by local boards and that shall
23 achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek
24 out kinship care options to keep children out of foster care and as a placement option for those children in
25 foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot
26 be returned to his prior family or placed for adoption and kinship care is not currently in the best interests

27 of the child, the local board shall consider the placement and services that afford the best alternative for
28 protecting the child's welfare. Placements may include but are not limited to family foster care, treatment
29 foster care and residential care. Services may include but are not limited to assessment and stabilization,
30 diligent family search, intensive in-home, intensive wraparound, respite, mentoring, family mentoring,
31 adoption support, supported adoption, crisis stabilization or other community-based services. The Board
32 shall also approve in foster care policy the language of the agreement required in § 63.2-902. The
33 agreement shall include at a minimum a Code of Ethics and mutual responsibilities for all parties to the
34 agreement.

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

40 The local board shall, in accordance with the regulations adopted by the Board and in accordance
41 with the entrustment agreement or other order by which such person is entrusted or committed to its care,
42 have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has
43 been adopted or has attained his majority.

44 Whenever a local board places a child where legal custody remains with the parent, parents or
45 guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement
46 shall specify the responsibilities of each for the care and control of the child.

47 The local board shall have authority to place for adoption, and to consent to the adoption of, any
48 child properly committed or entrusted to its care when the order of commitment or entrustment agreement
49 between the parent or parents and the agency provides for the termination of all parental rights and
50 responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the
51 child.

52 The local board shall also have the right to accept temporary custody of any person under 18 years
53 of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a

54 child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of
55 adoption unless the placement agreement between the foster parents and the local board specifically so
56 stipulates.

57 B. Prior to the approval of any family for placement of a child, a home study shall be completed
58 and the prospective foster or adoptive parents shall be informed that information about shaken baby
59 syndrome, its effects, and resources for help and support for caretakers is available on a website
60 maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local
61 boards and licensed child-placing agencies shall be conducted in accordance with the Mutual Family
62 Assessment home study template and any addenda thereto developed by the Department. All home
63 studies, including all related approval documentation other than background checks, conducted pursuant
64 to this section, whether by a local board or a licensed child-placing agency, shall be transferable between
65 all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request
66 of the prospective foster parent, subject to any time limitations or other requirements imposed by law or
67 regulation.

68 C. Prior to placing any such child in any foster home or children's residential facility, the local
69 board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other
70 appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to §
71 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary
72 emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival
73 at the facility, the written agreement does not need to be entered into prior to placement, but shall be
74 completed and signed by the local board and the facility representative within 24 hours of the child's
75 arrival or by the end of the next business day after the child's arrival.

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

80 D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-
81 100, the local social services agency making such placement shall, in writing, (i) notify the principal of
82 the school in which the student is to be enrolled and the superintendent of the relevant school division or
83 his designee of such placement, and (ii) inform the principal of the status of the parental rights.

84 If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or
85 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services
86 agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster
87 child within 30 days after the child's enrollment.

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

91 **§ 63.2-900. (Effective pursuant to Va. Const., Art. IV, § 13) Accepting children for placement**
92 **in homes, facilities, etc., by local boards.**

93 A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable
94 family homes, children's residential facilities or independent living arrangements, subject to the
95 supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons
96 under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any court
97 of competent jurisdiction, or placed through an agreement between it and the parent, parents or guardians
98 where legal custody remains with the parent, parents, or guardians.

99 The Board shall adopt regulations for the provision of foster care services by local boards, which
100 shall be directed toward the prevention of unnecessary foster care placements and towards the immediate
101 care of and permanent planning for children in the custody of or placed by local boards and that shall
102 achieve, as quickly as practicable, permanent placements for such children. The local board shall first seek
103 out kinship care options to keep children out of foster care and as a placement option for those children in
104 foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a child cannot
105 be returned to his prior family or placed for adoption and kinship care is not currently in the best interests
106 of the child, the local board shall consider the placement and services that afford the best alternative for

107 protecting the child's welfare. Placements may include but are not limited to family foster care, treatment
108 foster care, and residential care; however, the local board shall seek to place the child with a foster family
109 within the locality of the local board or a nearby locality through the collaborative local board placement
110 program set forth in subsection F, provided that such placement is in the best interests of the child. Services
111 may include but are not limited to assessment and stabilization, diligent family search, intensive in-home,
112 intensive wraparound, respite, mentoring, family mentoring, adoption support, supported adoption, crisis
113 stabilization or other community-based services. The Board shall also approve in foster care policy the
114 language of the agreement required in § 63.2-902. The agreement shall include at a minimum a Code of
115 Ethics and mutual responsibilities for all parties to the agreement.

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

121 The local board shall, in accordance with the regulations adopted by the Board and in accordance
122 with the entrustment agreement or other order by which such person is entrusted or committed to its care,
123 have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has
124 been adopted or has attained his majority.

125 Whenever a local board places a child where legal custody remains with the parent, parents or
126 guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement
127 shall specify the responsibilities of each for the care and control of the child.

128 The local board shall have authority to place for adoption, and to consent to the adoption of, any
129 child properly committed or entrusted to its care when the order of commitment or entrustment agreement
130 between the parent or parents and the agency provides for the termination of all parental rights and
131 responsibilities with respect to the child for the purpose of placing and consenting to the adoption of the
132 child.

133 The local board shall also have the right to accept temporary custody of any person under 18 years
134 of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a
135 child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of
136 adoption unless the placement agreement between the foster parents and the local board specifically so
137 stipulates.

138 B. Prior to the approval of any family for placement of a child, a home study shall be completed
139 and the prospective foster or adoptive parents shall be informed that information about shaken baby
140 syndrome, its effects, and resources for help and support for caretakers is available on a website
141 maintained by the Department as prescribed in regulations adopted by the Board. Home studies by local
142 boards or licensed child-placing agencies shall be conducted in accordance with the Mutual Family
143 Assessment home study template and any addenda thereto developed by the Department. All home
144 studies, including all related approval documentation other than background checks, conducted pursuant
145 to this section, whether by a local board or a licensed child-placing agency, shall be transferable between
146 all localities, local boards, and licensed child-placing agencies within the Commonwealth at the request
147 of the prospective foster parent, subject to any time limitations or other requirements imposed by law or
148 regulation.

149 C. Prior to placing any such child in any foster home or children's residential facility, the local
150 board shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other
151 appropriate custodian setting forth therein the conditions under which the child is so placed pursuant to §
152 63.2-902. However, if a child is placed in a children's residential facility licensed as a temporary
153 emergency shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival
154 at the facility, the written agreement does not need to be entered into prior to placement, but shall be
155 completed and signed by the local board and the facility representative within 24 hours of the child's
156 arrival or by the end of the next business day after the child's arrival.

157 Agreements entered into pursuant to this subsection shall include a statement by the local board
158 that all reasonably ascertainable background, medical, and psychological records of the child, including

159 whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been
160 provided to the foster home or children's residential facility.

161 D. Within 72 hours of placing a child of school age in a foster care placement, as defined in § 63.2-
162 100, the local social services agency making such placement shall, in writing, (i) notify the principal of
163 the school in which the student is to be enrolled and the superintendent of the relevant school division or
164 his designee of such placement, and (ii) inform the principal of the status of the parental rights.

165 If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or
166 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services
167 agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster
168 child within 30 days after the child's enrollment.

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

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

177 **§ 63.2-904. Investigation, visitation, and supervision of foster homes or independent living**
178 **arrangement; removal of child.**

179 A. Before placing or arranging for the placement of any such child in a foster home or independent
180 living arrangement, a local board or licensed child-placing agency shall cause a careful study to be made
181 to determine the suitability of such home or independent living arrangement, and after placement shall
182 cause such home or independent living arrangement and child to be visited as often as necessary to protect
183 the interests of such child. Home studies by local boards or licensed child-placing agencies shall be
184 conducted in accordance with the Mutual Family Assessment home study template and any addenda
185 thereto developed by the Department. All home studies, including all related approval documentation

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

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

193 C. Whenever any child placed by a local board or licensed child-placing agency and still under its
194 control or supervision is subject, in the home in which he is placed, to unwholesome influences or to
195 neglect or mistreatment, or whenever the Commissioner shall so order, such local board or agency shall
196 cause the child to be removed from such home and shall make for him such arrangements as may be
197 approved by the Commissioner. Notwithstanding any other provision of law, the Commissioner shall have
198 the authority to place, remove, or direct the placement or removal of any child who is under the supervision
199 and control of a local board or licensed child-placing agency. Pursuant to such authority, the
200 Commissioner shall remove or direct the removal of any child placed by a local board or licensed child-
201 placing agency in a foster home or children's residential facility that fails to comply with any state or
202 federal requirements intended to protect the child's health, safety, or well-being.

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

208 **§ 63.2-1231. Home study; meeting required; exception.**

209 A. Prior to the consent hearing in the juvenile and domestic relations district court, a home study
210 of the adoptive parent(s) shall be completed by a licensed or duly authorized child-placing agency and the
211 prospective adoptive parents shall be informed that information about shaken baby syndrome, its effects,
212 and resources for help and support for caretakers is available on a website maintained by the Department

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

221 All home studies conducted pursuant to this section, whether by a local board or a child-placing
222 agency, shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally
223 suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical
224 and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or
225 will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid
226 by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether
227 the requirements of subdivisions A 1, ~~A 2~~, ~~A 3~~, and ~~A 5~~ of § 63.2-1232 have been met; and (vi) any other
228 matters specified by the circuit court. In the course of the home study, the agency social worker, family-
229 services specialist, or other qualified equivalent worker shall meet at least once with the birth parent(s)
230 and at least once with the prospective adoptive parents. Upon agreement of both parties, such meetings
231 may occur simultaneously or separately.

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

236 **§ 63.2-1734. Regulations for child welfare agencies.**

237 A. The Board shall adopt regulations for the activities, services, and facilities to be employed by
238 persons and agencies required to be licensed under this subtitle, which shall be designed to ensure that

239 such activities, services, and facilities are conducive to the welfare of the children under the custody or
240 control of such persons or agencies.

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

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

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

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

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