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COMMONWEALTH of VIRGINIA

DEPARTMENT OF SOCIAL SERVICES

DATE: June 26, 2020

TO: Licensed Child Placing Agencies
Independent Foster Homes

FROM: Tara Ragland, Director
Division of Licensing Programs

SUBJECT: 2020 Legislative Implementation

This memo will inform you of legislation that passed in the 2020 Virginia General Assembly session that affects licensed child placing agencies and independent foster homes, The legislation will become effective July 1, 2020 unless otherwise indicated. A brief summary of each bill and links to the legislation appear below. Regulations will be updated as needed for each of the bills.

House Bill 94

[HB 94](#) amended and reenacted § 63.2-1202 of the Code of Virginia by adding that a legal custodian of a child being placed for adoption, and any other named parties in pending cases in which the custody or visitation of a child is at issue, will be entitled to proper notice of any adoption proceeding and an opportunity to be heard.

House Bill 368/Senate Bill 275

[HB 368](#) and [Senate Bill \(SB\) 275](#) amended and reenacted § 22.1-3.4 of the Code of Virginia, relating to school enrollment and students formerly in foster care. The amendment specified that a child or student placed in foster care include a pupil who was in foster care when he reached age 18, but has not reached age 22.

House Bill 400/Senate Bill 156

[HB 400](#) and [SB 156](#) established the Fostering Futures program to provide services and support to individuals between the ages of 18 and 21 who were in foster care as a minor and are transitioning to full adulthood and self-sufficiency. Legislation amended and reenacted §§ 9.1-151, 16.1-228, 16.1-241, and 63.2-100 of the Code of Virginia and added a section numbered 16.1-283.3 and Chapter 9 of Title 63.2 an article numbered 2, consisting of sections numbered 63.2-917 through 63.2-923. The amendments provide a

definition of fostering futures, establishes eligibility criteria and case management services available through this program.

House Bill 721

[HB 721](#) amended and reenacted §63.2-1202 of the Code of Virginia by adding that a legal custodian of a child being placed for adoption, and any other named parties in pending cases in which the custody or visitation of a child is at issue, will be entitled to proper notice of any adoption proceeding and an opportunity to be heard.

House Bill 1301

[HB 1301](#) established the Office of the Children’s Ombudsman, which is charged with reviewing and monitoring the actions of the Virginia Department of Social Services, local departments of social services, licensed child-placing agencies, and child-care institutions. Additionally, the Code of Virginia §§ 2.2-438 through 2.2-448 defined specific terms used in these sections; created guidelines for the establishment, appointment, and removal of the Ombudsman; and outlined the requirements of the office. Requirements outlined include mandatory training, the investigation of complaints, the notification of safety concerns, individuals authorized to make complaints, the powers and investigatory authorities of the Ombudsman, the Ombudsman’s access to information, the confidentiality of records, and the report of findings by the Ombudsman, and penalties for false reports. The Office of the Children’s Ombudsman is separate from Virginia Department of Social Services (DSS) and is under the authority of the Office of the Governor.

Senate Bill 472

[SB 472](#) required local departments of social services and child-placing agencies holding custody of a child, when not petitioning for termination of parental rights (TPR), to include in the petition for permanency planning hearings, a description of why they are not filing for TPR. The petition for permanency planning hearings shall also include a description of the reasonable efforts made towards reunification or transfer of custody for children in their custody for 15 months out of the last 22 months. Additionally, they must provide the child’s parent information regarding the option of voluntary termination of parental rights when reunification is not the case plan goal.

The bill further requires child-placing agencies holding custody of a child to:

- Consult with the Commissioner or designee regarding case planning for children who have been in the agency’s custody for 12 months and for who reunification remains a goal;
- Conduct independent living needs assessments and develop transition plans within 30 days of a child in foster care reaching 14 years of age or within 30 days of a child who is 14 years of age or older entering foster care and update those plans annually;
- Report to the Commissioner of DSS or his designee all instances in which a petition for TPR has not been filed for a child in the custody of the child-placing agency for 15 of the most recent 22 months; and

- Include in this report a clear description of the reasons why such petition has not been filed and the reasonable efforts made regarding reunification or placement of the child with a relative.

The Commissioner shall use the information contained in the report to establish a training program that educates local boards and child-placing agencies regarding common errors made by local boards and child-placing agencies when declining to file a petition for termination of parental rights.

Legislation directs DSS to promulgate regulations establishing clear guidance for acceptable reasons to forego filing for TPR and to establish a training program.

Senate Bill 1025

[SB 1025](#) requires local departments of social services to grant a waiver of training requirements necessary for the approval of a kinship foster parent upon determining that training requirements are a barrier to placement with the kinship foster parent and that such placement is in the child's best interest. The bill prohibits local boards from requiring that a child be removed from the physical custody of a kinship foster parent during such approval process, provided that placement with the kinship foster parent remains in the child's best interest. The bill requires DSS to (i) develop a training program that is tailored to persons seeking approval as a kinship foster parent; (ii) develop a document that provides comprehensive information regarding kinship foster care; and (iii) provide training to local boards regarding the process through which a person may be approved as a kinship foster parent without requiring removal of the child from the physical custody of such person.

Local departments of social services currently approve kinship foster parent placements

If you have any questions regarding this legislative notice, please contact your licensing inspector.