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Recommendation for Designated Adoption issue only

DISCLAIMER - I am not an attorney nor am I a legislator so my language may not be the language necessary for law but I hope I have conveyed my suggestions clearly and with a clear explanation of rationale at the end. I am a social worker who has to make this law work every single day and I am an adoptee and birth mother who has to live with this law every single day. I believe of all of the suggestions made regarding this issue, this may address everyone's concerns most adequately.

§ 63.2-104. Confidential records and information concerning social services; penalty. *ADD SECTION D.*

A. The records, information and statistical registries of the Department, local departments and of all child-welfare agencies concerning social services to or on behalf of individuals shall be confidential information, provided that the Commissioner, the Board and their agents shall have access to such records, information and statistical registries, and that such records, information and statistical registries may be disclosed to any person having a legitimate interest in accordance with state and federal law and regulation.

It shall be unlawful for any officer, agent or employee of any child-welfare agency; for the Commissioner, the State Board or their agents or employees; for any person who has held any such position; and for any other person to whom any such record or information is disclosed to disclose, directly or indirectly, any such confidential record or information, except as herein provided or pursuant to § 63.2-105. Every violation of this section shall constitute a Class 1 misdemeanor.

B. If a request for a record or information concerning applicants for and recipients of social services is made to the Department or a local department by a person who does not have a legitimate interest, the Commissioner or local director shall not provide the record or information unless permitted by state or federal law or regulation.

C. This section shall not apply to the disposition of adoption records, reports and information that is governed by the provisions of § 63.2-1246.

D. Any child-welfare agency may disclose identifying information between birth parents and adoptive parents

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during the course of an agency placement adoption only if the consenting birth parent(s) and adoptive parent(s) have signed disclosure statements requesting that the information be shared. Such disclosure statements must specify what information may be shared and to whom the information may given.

(Code 1950, §§ 63-41, 63-140, 63-140.15, 63-161, 63-204, 63-220, 63-246; 1958, c. 433; 1962, c. 621; 1968, cc. 43, 578, §§ 63.1-34, 63.1-126, 63.1-209; 1972, c. 540; 1976, c. 365; 1977, c. 547, § 63.1-55.4; 1979, cc. 218, 666; 1981, c. 456; 1983, c. 604; 1986, c. 213; 1988, cc. 151, 898; 1994, c. 643; 2000, cc. 500, 830; 2001, cc. 503, 518; 2002, c. 747.)

~~§ 63.2 1226. Parental placement sections apply if birth parents designate adoptive parents.~~

~~When a licensed child placing agency or a local board accepts custody of a child for the purpose of placing the child with adoptive parents designated by the birth parents or a person other than a licensed child placing agency or local board, the parental provisions of this chapter shall apply to such placement.~~

~~(1989, c. 647, § 63.1 220.2, § 63.1 219.33; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830; 2002, c. 747.)~~

COMPLETE REVISION OF THIS CODE SECTION TO READ:

§ 63.2-1226. Parental placement sections apply if birth parents designate adoptive parents. Parental placement sections apply if birth parents do not wish a licensed child-placing agency or local board to accept custody of a child for the purpose of adoption

~~When a licensed child placing agency or a local board accepts custody of a child for the purpose of placing the child with adoptive parents designated by the birth parents or a person other than a licensed child placing agency or local board, the parental provisions of this chapter shall apply to such placement.~~

The parental placement sections of this chapter shall apply only when a birth parent does not wish a local board or licensed child-placing agency to accept custody of a child for the purpose of an adoptive placement. A birth parent may designate adoptive parents for a child and choose a parental placement legal route OR an agency placement legal route to give consent to said adoption. The local board or

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licensed child-placing agency shall honor the designated adoptive parents chosen by the birth parents as long as the adoptive parents meet adoptive home study standards in accordance with regulations adopted by the Board.

(1989, c. 647, § 63.1-220.2, § 63.1-219.33; 1990, c. 202; 1991, c. 364; 1995, cc. 772, 826; 1999, c. 1028; 2000, c. 830; 2002, c. 747.)

RATIONALE:

The above two changes effectively give agency placement adoptions more flexibility in their ability to serve the needs of potential birth parents by allowing agency placement adoption to have some disclosure of information IF both sides wish to disclose. By adding a provision to the confidentiality section of the code, Agency's can offer to birth parents an option to place their child in their custody to allow the agency to assume the responsibility of the legal process of adoption and still allow for disclosure of information.

The change to 63.2-1226 clarifies when parental placement adoption provisions shall be utilized - when a birth parents CHOOSES to not have an agency assume responsibility for the legal process of the adoption and wishes to make the placement directly with the adoptive parents, then parental placement applies. It further gives agency placement adoptions the flexibility to honor the wish of a birth parent who wishes to designate by not disclose or designate and have the agency assume custody and have some disclosure of information (because of the change made to 63.2-104.

I believe that if this change is made - it tends to the issues LDS Family Services wants in regards to letting birth parents designate but still do a non-disclosed adoption AND it should clarify the law enough so that Barbara Jones' concern about having to follow two legal processes for one adoption should not have to occur. It satisfies Coordinators2inc's concern about closing open adoptions because it actually allows for more flexibility and openness within agency placement adoption but still allows agency placement to conduct non-disclosed adoption as well.

I am still looking at other changes that Stan Phillips recommended at the last meeting and may have other thoughts regarding those at tomorrows meeting but I wanted to email

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this specific idea related to the entire Designated Adoption issue ahead of time in case the committee members have a chance to see it before the meeting. So for the last minute nature of this suggestion but it has taken a very long time to fully consider who to make the adoption code work well for all the sides related to this particular issue. I look forward to the committee meeting on Monday