CHAPTER 50-12
CHILD-PLACING AGENCY

50-12-01. Definitions.

As used in this chapter, unless the context or subject matter otherwise requires:

1. "Child-placing agency" means any person undertaking to place children in family homes for temporary or permanent care.
2. "Placement" means the transfer of physical custody of a child from a birth parent for foster or adoptive care until an adoption is finalized.

50-12-02. Child-placing agency licensed - Rules.

Every child-placing agency shall secure a license from the department of health and human services. The department shall adopt rules establishing the requirements for licensure as a child-placing agency.

50-12-02.1. Out-of-state child-placing agency license requirements.

Repealed by S.L. 2025, ch. 449, § 6.

50-12-03. Requirements for licensure and employment - Term - Moral or religious conviction not bar to licensure or employment.

The department of health and human services shall issue licenses for the conduct of child-placing agencies upon application. A child-placing agency shall require a criminal history record investigation on the owner and each employee, volunteer, or student for field placement of a child-placing agency who has direct contact with families, with children, or with both. The department of health and human services shall consider any criminal history record information available about the owner at the time a licensing decision is made and about an employee prior to the owner or the employee having direct contact with families, with children, or with both. Licenses must be granted for a period not exceeding two years. Licenses must be issued to reputable and responsible applicants upon a showing that they, and their agents, are equipped properly by training and experience to find and select suitable temporary or permanent homes for children and to supervise the homes when children are placed in them, to the end that the health, morality, and general well-being of children placed by them will be properly safeguarded. The department of health and human services may not deny a license because of the applicant's objection to performing, assisting, counseling, recommending, facilitating, referring, or participating in a placement that violates the applicant's written religious or moral convictions or policies.

50-12-03.1. Conviction not bar to licensure or employment - Exceptions.

Conviction of an offense does not disqualify a person from licensure or employment under this chapter unless the department of health and human services determines that the offense has a direct bearing upon a person's ability to serve the public as the owner or employee of a child-placing agency, or that, following the person's conviction of any offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1.

50-12-03.2. Criminal history record investigation required.

1. A child-placing agency shall include, in any adoptive home study report, the results of a criminal history record investigation made under this section. If the results reveal a conviction of a crime described in chapter 50-11.3 or determined by the department to have a direct bearing upon the person's ability to provide a suitable home for placement of any child, or the department determines, following conviction of any other offense, the person is not sufficiently rehabilitated under section 12.1-33-02.1, the home study report must include a determination that a home provided by the prospective adoptive parent is not a suitable home for the placement of any child and a recommendation that the petition for adoption be denied. A child-placing agency

shall consider any criminal history record information available when making a recommendation in a home study report.

2. A child-placing agency shall secure, from a law enforcement agency or any other agency authorized to take fingerprints, two sets of fingerprints and shall provide all other information necessary to secure state criminal history record information and a nationwide background check under federal law from any prospective adoptive parent and any adult living in the prospective adoptive parent's household. Upon a request of a child-placing agency, a law enforcement agency shall take fingerprints of any prospective adoptive parent and any adult living in the prospective adoptive parent's household for purposes of this section. An agency that takes fingerprints as provided under this section may charge a reasonable fee to offset the cost of fingerprinting.
3. The child-placing agency shall assure that information obtained under subsection 2 is provided to the department of health and human services and shall arrange payment to the bureau of criminal investigation sufficient to defray the cost of securing criminal history record information under this section.
4. Upon receipt of all fingerprints and necessary information relating to a criminal history record investigation, the department of health and human services shall submit those fingerprints and that information to the bureau of criminal investigation.
5. The bureau of criminal investigation shall request a nationwide background check from the federal bureau of investigation and, upon receipt of a response, provide the response of the federal bureau of investigation to the department of health and human services. The bureau of criminal investigation shall also provide any criminal history record information that may lawfully be made available under chapter 12-60 to the department.
6. The department of health and human services shall provide the child-placing agency with any information, received under this section from the bureau of criminal investigation, that the department of health and human services is not prevented by federal law from disclosing to the child-placing agency.
7. The department of health and human services may adopt emergency rules under this section without the finding otherwise required under section 28-32-02.
8. A criminal history record investigation completed under this section may be used to satisfy the criminal history record investigation requirements of sections 50-11-06.8 and 50-11.3-01.

50-12-04. Contents of license.

The license to conduct a child-placing agency issued under the provisions of this chapter must set forth:

1. The name and address of the licensee.
2. The number of children who may be placed by the licensee during the term for which the license is issued.
3. Whether the licensee is authorized to find foster or adoptive homes for children, or both.

50-12-05. Department may prescribe form of records - Make rules - Records open for inspection.

The department of health and human services may prescribe the forms for the registration and record of children placed by a child-placing agency. The department shall make such reasonable rules and regulations in connection with such placements as are necessary to carry out the purposes of this chapter. All records must be open to the inspection of the department.

50-12-06. Placement contract.

Every child-placing agency upon placing a child in a foster or an adoptive home shall enter a written agreement with the persons taking the child. The agreement must provide:

1. The placing agency has access at all reasonable times to such child and to the home in which the child is living; and

2. For the return of the child to the placing agency whenever in the opinion of the agency, or of the department of health and human services, the best interests of the child require the return.

50-12-07. Duties of licensee.

Every licensee shall:

1. Keep a full record and social history of each child received for placement and a similar record and history of the licensee's family.
2. Report to the department of health and human services:
   a. The name and address of each child to be placed in a foster or an adoptive home;
   b. The name and address of the proposed foster or adoptive parents; and
   c. Any other facts and information as requested by the department.
3. Visit the proposed foster or adoptive home at frequent intervals and make all necessary inquiries and investigations as may be necessary to determine whether the child will become properly adjusted in the home.
4. Continue to visit and supervise each placement as often as may be required by the department and report in writing to the department the conditions as ascertained by a visit.

50-12-07.1. Objection to placement for religious or moral convictions or policies - Effect.

A child-placing agency is not required to perform, assist, counsel, recommend, facilitate, refer, or participate in a placement that violates the agency's written religious or moral convictions or policies. A state or local government entity may not deny a child-placing agency any grant, contract, or participation in a government program because of the child-placing agency's objection to performing, assisting, counseling, recommending, facilitating, referring, or participating in a placement that violates the child-placing agency's written religious or moral convictions or policies. Refusal by a child-placing agency to perform, assist, counsel, recommend, facilitate, refer, or participate in a placement that violates the child-placing agency's written religious or moral convictions or policies does not constitute a determination that the proposed adoption is not in the best interest of the minor.

50-12-08. Child must be placed in suitable home - Human service zone may remove child.

A child may not be placed in any foster or adoptive home until adequate investigation has been made as to the suitability of the proposed foster or adoptive parents and their home surroundings. When the human service zone is satisfied that a child has been placed in an unsuitable home, the human service zone shall order the child-placing agency, in writing, to remove the child and place the child in a home that meets the approval of the human service zone. If within a reasonable period of time it appears that suitable arrangements have not been made for the care of the child, the human service zone shall make immediate arrangements for the care and support of the child. If the child has no legal settlement within the state, or in case of a dispute as to the determination of the child's legal settlement or responsibility for the child's support, the child must be brought before the juvenile court as a dependent child in the county in which the child is found, as provided by law.

50-12-09. Compensation for child placing.

1. A child-placing agency in making an adoptive placement may be compensated by the adoptive family for reasonable fees.
2. Child-placing agency compensation only may be received for services provided to the adoptive family if reflected in a financial agreement. An itemized receipt of reasonable fees paid by the child-placing agency must be provided to the adoptive family.
3. The fees may not be contingent upon placement of the child for adoption, consent to adoption, or cooperation in the completion of adoption.

4. Reasonable fees may include:
    a. Facilitation fees charged and completed by the child-placing agency including the cost of preplacement birth parent counseling, adoption home study assessment, placement costs for children not in public custody, utilizing a foster care placement prior to finalization, placement supervision, or other preadoption services offered by the child-placing agency;
    b. Legal fees relating to the petition for relinquishment or adoption on behalf of the birth parent;
    c. Medical expenses relating to prenatal care and the birth of the child, which are not already covered by the birth mother's health insurance or other public assistance programs;
    d. Expenses incurred by the birth parent for transportation, meals, and lodging in order to receive counseling, legal, or medical services related to the pregnancy, birth, or placement of the child; and
    e. Living expenses of the birth mother which are needed to maintain an adequate standard of living, not already covered by public assistance programs.
        (1) The payments may cover expenses incurred during the pregnancy-related incapacity and for up to six weeks following the delivery.
        (2) Living expenses do not include lost wages, gifts, educational expenses, vacations, or other similar expenses of a birth mother.

50-12-10. Revocation of license - Grounds.

The department of health and human services may revoke the license of any child-placing agency upon a proper showing of any of the following:

1. The licensee has violated any requirement under this chapter.
2. The license was issued upon a fraudulent or untrue representation.
3. The licensee has violated any rule or regulation of the department.
4. The licensee has made a false or misleading report to the department.

50-12-11. Revocation of license - False reports.

Repealed by S.L. 2025, ch. 449, § 6.

50-12-12. Denial or revocation of license - Hearing.

Before any application for a license under this chapter may be denied or before the revocation of any license may take place, written charges as to the reasons therefor must be served upon the applicant or licensee. The applicant or licensee has the right to an administrative hearing as provided under chapter 28-32 if written request for the hearing is made to the department within thirty days after service of the written charges.

50-12-13. Appeal from denial or revocation of license.

Repealed by S.L. 2003, ch. 417, § 13.

50-12-14. Foreign associations placing children in state - Consent of department required.

Repealed by S.L. 1975, ch. 445, § 3.

50-12-14.1. Conditions for placement of children in state - Consent of department required.

Any person undertaking to bring or to send a child into this state for placement in foster care, as a preliminary to a possible adoption, or for guardianship shall furnish the department of health and human services with written notice of the intention to send, bring, or place the child in the state and shall obtain prior written consent from the department for each child to be so placed. The notice must contain:

1. The name, date, and place of birth of the child;
2. The identity and address or addresses of the parent or legal guardian;

3. The name and address of the person, agency, or institution to or with which the child is proposed to be placed;
4. A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made; and
5. Any supporting or additional information as the department determines necessary under the circumstances.

This section does not apply to the sending or bringing of a child into this state by the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or the child's guardian and leaving the child with any such relative or nonagency guardian in this state.

50-12-15. Resident may bring child into state for permanent care - Report.

Repealed by S.L. 1975, ch. 445, § 3.

50-12-16. Taking children from state for placement in family homes - Consent of department - Report.

No person, partnership, voluntary association, corporation, or limited liability company may take or send any child out of the state for placement in a family home in another state without first securing the consent of the department of health and human services so to do and without first reporting to the department:

1. The name and address of the child to be taken or sent;
2. The name and address of the family which is to receive the child; and
3. Such other information concerning the family and the child as the department may require.

This section does not apply to a parent who personally removes the parent's child from the state.

50-12-17. Licensure requirement - Registration requirement - Penalty.

1. A person may not place or cause to be placed any child in a family home for adoption without a license to do so from the department of health and human services.
2. Adoption services may be provided by the department when a conflict of interest with a child-placing agency exists and another child-placing agency is unable to provide the service.
3. A parent, upon giving written notice to the department, may place the parent's child in the home of the child's parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or guardian for adoption by the person receiving the child. The child must be considered abandoned if proceedings for the adoption or guardianship of the child are not initiated by such relative within one year following the date of notice of placement.
4. A person who willfully violates this chapter is guilty of a class C felony.
5. For purposes of this section, "place or cause to be placed" means to:
    a. Place a child for adoption;
    b. Arrange or provide for short-term foster care for a child pending an adoptive placement;
    c. Facilitate placement of a child by maintaining a list in any form of birth parents or prospective adoptive parents; or
    d. Advertise in any public medium that the person knows of a child who is available for adoption or is willing to accept a child for adoption or that the person knows of prospective adoptive parents of a child.