PROOF OF CHILD IDENTITY AND AGE
SECTION 63.2-1809 OF THE *CODE OF VIRGINIA*
(HOUSE BILL 946 - 1998)
2/03

The purpose of § 63.2-1809 of the *Code of Virginia* is to help identify missing children in regulated child day programs. It requires **licensed child day centers and family day homes, voluntarily registered family day homes, religiously exempt child day centers, family day homes approved by a licensed family day system, and certified preschool or nursery school programs** to require the person enrolling the child in their programs to provide information regarding the child's previous child care and school attendance and to present proof of the child's identity and age. If the person enrolling the child does not provide the above mentioned information within seven business days of initial attendance, the regulated program must immediately notify the local law-enforcement agency in the area. This notification does not apply if the person enrolls the child for only two consecutive days or there is no pattern of regular attendance. The law enforcement agency shall, if available information warrants, immediately submit an inquiry to the Missing Children Information Clearinghouse and, with the assistance of the local department of social services, if available information warrants, conduct the appropriate investigation to determine whether the child is missing.

These requirements need to be followed for any child enrolled on or after July 1, 1998. When determining what to accept as reliable proof of a child's identity and age, a basic guideline that requires it to be first hand information from a reliable source should be used. Proof of the child's identity and age may include:

- a certified copy of the child's birth certificate;
- birth registration card;
- notification of birth (hospital, physician or midwife record);
- passport;
- copy of the placement agreement or other proof of the child's identity from a child placing agency (foster care and adoption agencies);
- record from a public school in Virginia;
- certification by a principal or his designee of a public school in the U.S. that a certified copy of the child's birth record was previously presented; or
- copy of the entrustment agreement conferring temporary legal custody of a child to an independent foster parent.

Viewing the child's proof of identity is not necessary when the child attends a public school in Virginia *and* the center assumes responsibility for the child directly from the school (i.e., after school program) or the center transfers responsibility of the child directly to the school (i.e., before school program). While programs are not required to keep the proof of the child's identity, documentation of viewing this information must be maintained for each child.

Information about obtaining a certified copy of a birth certificate on a child born in Virginia is available by calling the Office of Vital Records, Virginia Department of Health at 804-662-6200 or by viewing the Department of Health's website at www.vdh.state.va.us. Prior to February 1, 2001, a certified copy of a child's birth certificate will be on state embossed seal paper. Effective February 1, 2002 the certificates will have a different look to them. Below are questions and answers on this law. If you have additional questions about this law, please contact your licensing inspector, support technician or contract agency.

1) Some children are born in other countries - is a passport acceptable? A birth certificate from another country may be in a language I cannot read - what should I do? *We will accept passports but it should be noted that each country establishes its own criteria for issuing a passport so you may on your own want to require a second source of identity or notify the local law-enforcement agency. Formal legalization or domestication is the highest form of authenticating foreign public documents. The process by which a foreign public document is legalized for use in the U.S. varies greatly depending on whether the country is a participating member of the Hague Convention, an international treaty abolishing the requirement for the legalization of foreign public documents. If such is the case, then the issuing agency will normally only need to affix the apostille stamp to a certified copy of the certificate. For countries not adhering to the Hague Convention, there is a formal process to authenticate the document that would probably not be completed within the time frames specified within the child identity law. With a birth certificate in another language you may want to have someone translate it or if you have concerns about it you may want to contact your local law-enforcement agency. A translation of the foreign document can be obtained through the assistance of the language department of any of Virginia's institutions of higher learning in which the language is taught.*

2) Can the Department of Health's form entitled School Entrance Physical Examination and Immunization Certification be acceptable as reliable proof of the child's identity and age? *We will accept notification of birth from a hospital, physician or midwife. We are not accepting the Department of Health's physical and immunization form since it does not meet the basic guideline that reliable proof be first hand information from a reliable source.*

3) Is a report card considered a "record from a public school in Virginia"? *This would be acceptable as proof of the child's identity as long as it is an original or a carbon copy (not a photocopy) from a public school in Virginia. The name of the school would need to be on the report card to indicate that it is a school record. The child's date of birth would not need to be on the report card since by law public schools should have already checked this.*

4) If a public school in Virginia mails or faxes the school physical to the child day program would this be considered a "record from a public school in Virginia"? *This would not be acceptable. A statement from a public school on letterhead that assures a*

certain child is or was enrolled in the school and is signed by the principal or other designated official would be acceptable.

5) Is a social security card acceptable as proof of identity? *The law requires proof of identity and age. A social security card does not include the child's age so this would not be acceptable.*

6) Are fingerprint cards acceptable as proof of the child's identity? *Fingerprint cards are not acceptable since the agency preparing the cards may not require proof of the child's identity.*

7) Some child day programs enroll many children from private schools that check the child's identity like public schools. Is there a school document, such as a statement verifying the child's identity was checked, that child care programs can accept as proof of the child's identity? *In this situation it would be necessary to use one of the forms of identification already described.*

8) Are custody papers acceptable as proof of identity? *Custody papers would not be acceptable since these types of documents are not first hand information about the child's identity. The law requires proof of identity and age; custody papers may not include the child's age. Also, there is no way to know whether the custody papers have been updated without checking with the court. Additionally, custody papers may have been handled through juvenile court so these records may be confidential.*

9) I have already viewed baptismal records of enrolled children as proof of identity but baptismal records are no longer acceptable. Do I need to review an additional document of the child's identity from the person who enrolled the child? *The Department originally stated that baptismal records would be acceptable as proof of identity and later sent guidance that this type of document would no longer be acceptable since it is not first hand information. Any baptismal record reviewed before our revised guidance would be acceptable and a second document of the child's identity would not need to be reviewed. Baptismal records may not be used as proof of identity for children enrolled after revised guidance on this topic was sent to providers.*

10) Parents will enroll infants before they are born. How does the law apply in this situation? *Since it is not feasible to present information on an infant's identity and age before birth, the program should notify the person enrolling the infant of the requirements of the law and state that the necessary information is required within seven business days of the infant's first day of attendance.*

11) Sometimes a grandparent enrolls a child and this grandparent may not have a birth certificate. How should this situation be handled? *We will accept a copy of the placement agreement or other proof of the child's identity from a child placing agency. There will be situations when the person enrolling the child will not have a certified birth certificate or other reliable proof of the child's identity and age. When this occurs, the program's responsibility is to notify the local law enforcement agency. The inability to*

present this information does not prohibit the enrollment or attendance of the child. The program needs to document that the local law enforcement agency was contacted.

12) Sometimes a parent is moving from another state and their belongings (including the child's birth certificate) are packed and will not arrive for another month. How should this situation be handled? *If the person enrolling the child cannot present the child's certified birth certificate or other reliable proof of the child's identity and age within seven business days of the child's first day of attendance, the program would need to notify the local law enforcement agency. This would not affect the child's attendance at the program.*

13) What is required if a child attends the same summer program each year? *The requirements of identifying the child's identity and age will not apply to children "returning" to a program when initial attendance was before July 1, 1998, such as when a child returns to a nursery school program after the summer months. Children in camps or recreation departments that have a variety of programs each year would probably not be considered "returning" but enrolling again. These children when enrolled on or after July 1, 1998, would need to meet the law requirements unless the program kept documentation of previously viewing proof of the child's identity. If this documentation is available, it is not necessary to update the information on previous child care programs and schools attended.*

14) Is it necessary for programs to require the information stated in the law if the child attends two or fewer consecutive days or when there is no regular attendance? *It is necessary for programs to require this information even if the child attends two or fewer consecutive days or when there is no regular attendance. If the child attends two or fewer consecutive days or there is no pattern of regular attendance then the program would not need to notify the local law enforcement agency if the person enrolling the child does not provide the required information. If there is a "pattern" to attendance this would be considered "regular" attendance.*

15) How are programs going to document the new proof of age and identity on new admissions of children? *Effective July 1, 1999, Section 32.1-272 of the Code of Virginia no longer prohibits making a copy of a birth certificate although the prohibition against making a copy that purports to be an original or certified copy still remains. Programs may make copies of certified birth certificates or other proof of identity as long as the copies of birth certificates are not claimed to be originals or certified copies. Another option for programs is to document viewing proof of the child's age and identity. Our model child registration form for licensed child day centers includes the new law requirements. With use of this form, the child's place of birth, birth date, birth certification number, date of certificate issuance, date of viewing documentation and name of person viewing the document are recorded as documentation. Please note that use of model forms such as this form is NOT required. Also, this form was developed specifically for licensed child day centers and includes only the requirements for enrolling a child in a licensed center. Note: when viewing proof of identity, photocopies of birth certificates are not allowed.*

16) What is the purpose of requiring programs to obtain information on previous day care programs and schools attended since this information needs to be kept confidential? How far back do you have to get a record on these programs - for school age children attending various camps, this could be a lot of programs. *The local law enforcement agency could obtain access to these records under certain circumstances. The law requires centers to require from the person enrolling the child information on all previous programs and schools his child attended. The person enrolling the child should provide the names of the programs and schools his child attended and their location (city and state) to assure proper identification of the program(s) or school(s). You might also want to request the dates of attendance at these programs and schools.*

17) If care is provided to children who are enrolled in public schools, is it necessary to obtain information on previous child day care programs and schools attended from the person enrolling the child? *It is still necessary to obtain information on previous child day care programs and schools attended.*

18) When the law refers to child day programs requiring information from the person enrolling the child regarding previous "child day care" and schools attended, does this include home based care? *This refers to all regulated and unregulated settings whether center based or home based.*

19) What is the program's responsibility if the person enrolling the child refuses to provide information on previous child day care and schools attended? *The program should have documentation that the person enrolling the child refused to provide this information. In this situation the program would need to notify the local law-enforcement agency and document that the local law enforcement agency was contacted. Refusal to present this information does not prohibit the enrollment or attendance of the child.*