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SENATE BILL NO. 534

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 6, 2006)

(Patron Prior to Substitute—Senator O'Brien)

A *BILL to amend and reenact §§ 16.1-277.01, 17.1-275, 63.2-1200, 63.2-1201, 63.2-1202, 63.2-1205, 63.2-1208, 63.2-1210, 63.2-1213, 63.2-1222, 63.2-1223, 63.2-1225 through 63.2-1228, 63.2-1231 through 63.2-1234, 63.2-1237, 63.2-1241, 63.2-1243, and 63.2-1721 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 12 of Title 63.2 an article numbered 4.1, consisting of sections numbered 63.2-1242.1 through 63.2-1242.3, an article numbered 7, consisting of sections numbered 63.2-1249 and 63.2-1250, and an article numbered 8, consisting of sections numbered 63.2-1251 through 63.2-1255, relating to adoption laws; penalty.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-277.01, 17.1-275, 63.2-1200, 63.2-1201, 63.2-1202, 63.2-1205, 63.2-1208, 63.2-1210, 63.2-1213, 63.2-1222, 63.2-1223, 63.2-1225 through 63.2-1228, 63.2-1231 through 63.2-1234, 63.2-1237, 63.2-1241, 63.2-1243, and 63.2-1721 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 12 of Title 63.2 an article numbered 4.1, consisting of sections numbered 63.2-1242.1 through 63.2-1242.3, an article numbered 7, consisting of sections numbered 63.2-1249 and 63.2-1250, and an article numbered 8, consisting of sections numbered 63.2-1251 through 63.2-1255, as follows:

§ 16.1-277.01. Approval of entrustment agreement.

A. In any case in which a child has been entrusted pursuant to § 63.2-903 or § 63.2-1817 to the local board of social services or to a child welfare agency, a petition for approval of the entrustment agreement by the board or agency:

1. Shall be filed within a reasonable period of time, no later than eighty-nine days after the execution of an entrustment agreement for less than ninety days, if the child is not returned to the caretaker from whom he was entrusted within that period;

2. Shall be filed within a reasonable period of time, not to exceed thirty days after the execution of an entrustment agreement for ninety days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and

3. May be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

The board or agency shall file a foster care plan pursuant to § 16.1-281 to be heard with any petition for approval of an entrustment agreement.

B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within forty-five days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3 of this section, except where an order of publication has been ordered by the court, in which case the hearing shall be held within seventy-five days of the filing of the petition. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The local board of social services or child welfare agency;

2. The child, if he is twelve years of age or older;

3. The guardian ad litem for the child; and

4. The child's parents, guardian, legal custodian or other person standing in loco parentis to the child.

No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. *While the mother may, she is not required to identify a father who is not acknowledged pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202.* An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. *Failure to register with the Putative Father Registry pursuant to Article 8 (§ 63.2-1251 et seq.) of Chapter 12 of Title 63.2 shall be sufficient evidence that the identity of the father is not reasonably ascertainable.* The hearing shall be held and an order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office

60 address cannot be ascertained after reasonable effort. However, when a petition seeks approval of a
61 permanent entrustment agreement which provides for the termination of all parental rights and
62 responsibilities with respect to the child, a summons shall be served upon the parent or parents and the
63 other parties specified in § 16.1-263. The summons or notice of hearing shall clearly state the
64 consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264.
65 The remaining parent's parental rights may be terminated even though that parent has not entered into an
66 entrustment agreement if the court finds, based upon clear and convincing evidence, that it is in the best
67 interest of the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity
68 and whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served
69 with notice of the termination proceeding pursuant to § 8.01-296 or § 8.01-320; (iii) the whereabouts of
70 the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings
71 by certified or registered mail to the last known address and such parent fails to object to the
72 proceedings within ~~twenty-one~~ 10 days of the mailing of such notice; or (iv) the whereabouts of the
73 parent are not reasonably ascertainable and the parent is given notice of the termination proceedings
74 through an order of publication pursuant to §§ 8.01-316 and 8.01-317, and such parent fails to object to
75 the proceedings.

76 C. At the hearing held pursuant to this section, the court shall hear evidence on the petition filed and
77 shall review the foster care plan for the child filed by the local board or child welfare agency in
78 accordance with § 16.1-281.

79 D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance of
80 the evidence, whether approval of the entrustment agreement is in the best interest of the child.
81 However, if the petition seeks approval of a permanent entrustment agreement which provides for the
82 termination of all parental rights and responsibilities with respect to the child, the court shall make a
83 finding, based upon clear and convincing evidence, whether termination of parental rights is in the best
84 interest of the child. If the court makes either of these findings, the court may make any of the orders of
85 disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any
86 such order transferring legal custody of the child shall be made in accordance with the provisions of
87 subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1 of this section.
88 This order shall include, but need not be limited to, the following findings: (i) that there is no less
89 drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to
90 prevent removal and that continued placement in the home would be contrary to the welfare of the
91 child, if the order transfers legal custody of the child to a local board of social services.

92 The effect of the court's order approving a permanent entrustment agreement is to terminate an
93 entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied
94 by an order (i) continuing or granting custody to a local board of social services or to a licensed
95 child-placing agency or (ii) granting custody or guardianship to a relative or other interested individual.
96 Such an order continuing or granting custody to a local board of social services or to a licensed
97 child-placing agency shall indicate whether that board or agency shall have the authority to place the
98 child for adoption and consent thereto. A final order terminating parental rights pursuant to this section
99 renders the approved entrustment agreement irrevocable. Such order may be appealed in accordance with
100 the provisions of § 16.1-296.

101 D1. Any order transferring custody of the child to a relative or other interested individual pursuant to
102 subsection D of this section shall be entered only upon a finding, based upon a preponderance of the
103 evidence, that the relative or other interested individual is one who (i) after an investigation as directed
104 by the court, is found by the court to be willing and qualified to receive and care for the child; (ii) is
105 willing to have a positive, continuous relationship with the child; (iii) is committed to providing a
106 permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from
107 abuse and neglect; and the order shall so state. The court's order transferring custody to a relative or
108 other interested individual should further provide for, as appropriate, any terms and conditions which
109 would promote the child's interest and welfare; ongoing provision of social services to the child and the
110 child's custodian; and court review of the child's placement.

111 E. The local board or licensed child-placing agency to which authority is given to place the child for
112 adoption and consent thereto after an order terminating parental rights is entered pursuant to this section
113 shall file a written Adoption Progress Report with the juvenile court on the progress being made to
114 place the child in an adoptive home. The report shall be filed with the court every six months from the
115 date of the final order terminating parental rights until a final order of adoption is entered on behalf of
116 the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is
117 ordered and authority is given to the local board or licensed child-placing agency to place the child for
118 adoption, the juvenile court shall schedule a date by which the board or agency shall file the first
119 Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be
120 sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report
121 with or without the request of a party.

§ 17.1-275. Fees collected by clerks of circuit courts; generally.

A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the following fees:

1. [Repealed.]

2. For recording and indexing in the proper book any writing and all matters therewith, or for recording and indexing anything not otherwise provided for, \$16 for an instrument or document consisting of 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty cents of the fee collected for recording and indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit court clerks.

3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be charged for estates of \$5,000 or less.

4. For entering and granting and for issuing any license, other than a marriage license or a hunting and fishing license, and administering an oath when necessary, \$10.

5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths or affidavits, indexing and recording, \$10.

6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all necessary oaths and writing proper affidavits, \$3.

7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

8. For making out a copy of any paper or record to go out of the office, which is not otherwise specifically provided for, a fee of \$0.50 for each page. From such fees, the clerk shall reimburse the locality the costs of making out the copies and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this subdivision. For purposes of this section, the costs of making out the copies shall include lease and maintenance agreements for the equipment used to make out the copies, but shall not include salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § ~~2.2-3704~~ 2.2-3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy to such party.

9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so, the clerk shall charge an additional \$0.50.

10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund as provided in § 17.1-275.8.

12. Upon the defendant's being required to successfully complete traffic school or a driver improvement clinic in lieu of a finding of guilty, the court shall charge the defendant fees and costs as if he had been convicted.

13. In all civil actions that include one or more claims for the award of monetary damages the clerk's fee chargeable to the plaintiff shall be \$50 in cases seeking recovery not exceeding \$50,000, \$100 in cases seeking recovery not exceeding \$100,000, and \$150 in cases seeking recovery exceeding \$100,000. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a

claim impleading a third-party defendant. The fees prescribed above shall be collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable to cases filed in the Supreme Court of Virginia.

13a. For the filing of any petition seeking court approval of a settlement where no action has yet been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time of filing the petition.

14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12; and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in subdivision A 17.

15. For qualifying notaries public, including the making out of the bond and any copies thereof, administering the necessary oaths, and entering the order, \$10.

16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

17. For docketing and indexing a judgment from any other court of this Commonwealth, for docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

18. For all services rendered by the clerk in any court proceeding for which no specific fee is provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing; however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a decree of divorce from the bond of matrimony.

19., 20. [Repealed.]

21. For making the endorsements on a forthcoming bond and recording the matters relating to such bond pursuant to the provisions of § 8.01-529, \$1.

22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

23. For preparation and issuance of a subpoena duces tecum, \$5.

24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name, \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a divorce.

25. For providing court records or documents on microfilm, per frame, \$0.10.

26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be \$50 to be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for the filing of a cross-claim or setoff in any pending suit. In divorce cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

27. For the acceptance of credit cards in lieu of money to collect and secure all fees, including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect a service charge of four percent of the amount paid.

28. For the return of any check unpaid by the financial institution on which it was drawn or notice is received from the credit card issuer that payment will not be made for any reason, the clerk shall collect, if allowed by the court, a fee of \$20 or 10 percent of the amount to be paid, whichever is greater, in accordance with § 19.2-353.3.

29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee imposed under § 63.2-1246, to be paid by the petitioner or petitioners. *For each petition for adoption filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an additional \$50 filing fee as required under § 63.2-1201, shall be deposited in the Putative Father Registry Fund pursuant to § 63.2-1251.*

30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the same amount as the fee for the original license.

31. For the filing of any petition as provided in §§ 33.1-124, 33.1-125 and 33.1-129, a fee of \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in § 33.1-122, as well as for any order of the court relating thereto, the clerk shall charge the same fee as for recording a deed as provided for in this section, to be paid by the party upon whose request such

certificate is recorded or order is entered.

32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme Court, including all papers necessary to be copied and other services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8, or 17.1-275.9, a fee of \$20.

33. For issuance of hunting and trapping permits in accordance with § 10.1-1154, \$0.25.

34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees shall be as prescribed in that Act.

35. For filing the appointment of a resident agent for a nonresident property owner in accordance with § 55-218.1, a fee of \$1.

36. [Repealed.]

37. For recordation of certificate and registration of names of nonresident owners in accordance with § 59.1-74, a fee of \$10.

38. For maintaining the information required under the Overhead High Voltage Line Safety Act (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

39. For lodging, indexing and preserving a will in accordance with § 64.1-56, a fee of \$2.

40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed under § 8.9A-525.

41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed under § 8.9A-525.

42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as prescribed under § 8.9A-525.

43. For filing a petition as provided in §§ 37.2-1001 and 37.2-1013, the fee shall be \$10.

44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an additional fee of \$1.50, in accordance with subdivision A 44.

B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for courthouse construction, renovation or maintenance.

C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for services provided for the poor, without charge, by a nonprofit legal aid program.

D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A 18 if applicable, A 20, A 22, A 24, A 26, A 29 and A 31 to be designated for public law libraries.

E. The provisions of this section shall control the fees charged by clerks of circuit courts for the services above described.

§ 63.2-1200. Who may place children for adoption.

A child may be placed for adoption by:

1. A licensed child-placing agency;

2. A local board;

3. The child's parent or legal guardian if the placement is a parental placement; and

4. Any agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; ~~however, when any such agency outside the Commonwealth, or its agent, executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to a child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. Any entrustment agreement that fails to comply with such requirements shall be void.~~

§ 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.

Proceedings for the adoption of a minor child and for a change of name of such child shall be instituted only by petition to a circuit court in the county or city in which the petitioner resides ~~or, in the county or city in which is located the the child-placing agency that placed the child is located, or in the county or city in which a birth parent executed a consent pursuant to § 63.2-1233.~~ Such petition may be filed by any natural person who resides in the Commonwealth, or who has custody of a child placed by a child-placing agency of the Commonwealth, ~~for or by an adopting parent of a child who was subject to a consent proceeding held pursuant to § 63.2-1233, or by intended parents who are parties to a surrogacy contract.~~ The petition shall ask leave to adopt a minor child not legally ~~his the~~ petitioner's by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, the petition shall be the joint petition of the husband and wife but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to the prayer thereof only. The

petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents, and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

The petition for adoption, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, shall include an additional \$50 filing fee that shall be used to fund the Putative Father Registry established in Article 8 (§ 63.2-1251 et seq.) of this chapter.

§ 63.2-1202. Parental, or agency, consent required; exceptions.

A. No petition for adoption shall be granted, except as hereinafter provided in this section, unless written consent to the proposed adoption is filed with the petition. Such consent shall be *in writing*, signed *under oath* and acknowledged before an officer authorized by law to take acknowledgments. The consent of a birth parent for the adoption of his child placed directly by the birth parent shall be executed as provided in § 63.2-1233, and the circuit court may accept a certified copy of an order entered pursuant to § 63.2-1233 in satisfaction of all requirements of this section, provided the order clearly evidences compliance with the applicable notice and consent requirements of § 63.2-1233.

B. A birth parent who has not reached the age of 18 shall have legal capacity to give consent to adoption and *perform all acts related to adoption*, and shall be as fully bound thereby as if the birth parent had attained the age of 18 years.

B1. A man shall be presumed to be the father of a child if:

1. He and the mother of the child are married to each other and the child is born during the marriage;

2. He and the mother of the child were married to each other and the child is born within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or after a decree of separation;

3. Before the birth of the child, he and the mother of the child married each other in apparent compliance with the law, even if the attempted marriage is or could be declared invalid, and the child is born during the invalid marriage or within 300 days after its termination by death, annulment, declaration of invalidity, divorce, or after a decree of separation;

Such presumption may be rebutted by sufficient evidence that would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation with the birth mother for a period of at least 300 days prior to the birth of the child.

C. Consent shall be executed:

1. By the parents or surviving parent of a child born in wedlock. A child born to a married birth mother shall be presumed to be the child of her husband and his consent shall be required. This presumption may be rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a preponderance of the evidence the paternity of another man, or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child; in such case his consent shall not be required. If the parents are divorced and the residual parental rights and responsibilities as defined in § 16.1-228 of one parent have been terminated by terms of the divorce, or other order of a court having jurisdiction, the petition may be granted without the consent of such parent *the birth mother and by any man who:*

a. Is an acknowledged father under § 20-49.1;

b. Is an adjudicated father under § 20-49.8;

c. Is a presumed father under subsection C; or

d. Has registered with the Putative Father Registry pursuant to Article 8 (§ 63.2-1251 et seq.) of this chapter.

2. By the parents or surviving parent of a child born to parents who were not married to each other at the time of the child's conception or birth. The consent of the birth father of a child born to parents who were not married to each other at the time of the child's conception or birth shall not be required (i) if the identity of the birth father is not reasonably ascertainable or (ii) if the identity of such birth father is ascertainable and his whereabouts are known, such birth father is given notice of the adoption proceeding, including the date and location of the hearing, by registered or certified mail to his last known address, and such birth father fails to object to the adoption proceeding within 21 days of the mailing of such notice. Such objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the circuit court in which the petition was filed during the business day of the court, within the time period specified in this section. Failure of the objecting party to appear at the consent hearing, either in person or by counsel, shall constitute a waiver of such objection; or

3- By the child-placing agency or the local board having custody of the child, with right to place him for adoption, through court commitment or parental agreement as provided in § 63.2-900, 63.2-903 or 63.2-1221; or an agency outside the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; and

43. By the child if he is 14 years of age or older, unless the circuit court finds that the best interests of the child will be served by not requiring such consent.

D. *No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with the respect to the adoption of the child and cannot be withdrawn.*

E. No consent shall be required of the birth father of a child when the birth father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation. -

E F. *When a child has been placed by the birth parent(s) with the prospective adoptive parent(s) who is the child's grandparent, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt, the circuit court may accept the written and signed consent of the birth parent(s) that has been acknowledged by an officer authorized by law to take such acknowledgments. No notice or consent shall be required of any person whose parental rights have been terminated by a court of competent jurisdiction.*

G. *No consent shall be required of a birth parent who, without just cause, has neither visited nor reasonably supported the child for a period of six months. The prospective adoptive parent(s) shall establish by clear and convincing evidence that the birth parent(s), without just cause, has neither visited nor reasonably supported the child for a period of six months. This provision shall not infringe upon the birth parent's right to be noticed and heard on the allegation of abandonment. -*

H. *A birth father not married to the mother of the child may consent to the termination of all of his parental rights prior to the birth of the child.*

I. *If a hearing is scheduled, failure of the objecting or nonconsenting party to appear at the hearing, either in person or by counsel, shall constitute a waiver of such objection and waiver of the right to consent to the adoption.*

§ 63.2-1205. Best interests of the child; standards for determining.

In determining whether the valid consent of any person whose consent is required is withheld contrary to the best interests of the child, or is unobtainable, the circuit court or juvenile and domestic relations district court, as the case may be, shall consider whether ~~the failure to grant~~ granting the petition pending before it would be ~~detrimental to~~ in the best interest of the child. ~~In determining whether the failure to grant the petition would be detrimental to the child, the~~ The circuit court or juvenile and domestic relations district court, as the case may be, shall consider all relevant factors, including the birth parent(s)' efforts to obtain or maintain legal and physical custody of the child; ~~whether the birth parent(s) are currently willing and able to assume full custody of the child;~~ whether the birth parent(s)' efforts to assert parental rights were thwarted by other people; the birth parent(s)' ability to care for the child; the age of the child; the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children; ~~whether the birth parent(s) have established and maintained a loving and close relationship with the child; what the birth parent(s)' desires and plans are for the child's future; whether the birth parent(s) have made an effort to provide reasonable financial support for the child; whether the current home environment allows the child to thrive academically, socially, and emotionally; whether the noncustodial parent has made continuous reasonable attempts to contact the child; what emotional and financial support the birth father provided the birth mother during the last six months of the pregnancy; all relevant circumstances surrounding the conception of the child; the age difference between the birth mother and birth father; the duration and suitability of the child's present custodial environment; and the effect of a change of physical custody on the child.~~

§ 63.2-1208. Investigations; report to circuit court.

A. *Upon consideration of the petition, the circuit court shall, upon being satisfied as to proper jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to conduct an investigation and prepare a report unless no investigation is required pursuant to this chapter. The court shall enter the order of reference prior to or concurrently with the entering of an order of publication, if such is necessary. Upon entry of the order of reference, the clerk shall forward a copy of the order of reference, the petition, and all exhibits thereto to the Commissioner and the child-placing agency retained to provide investigative, reporting, and supervisory services. If no Virginia agency was retained to provide such services, the order of reference, petition, and all exhibits shall be forwarded to the local director of social services of the locality where the petitioners reside or*

429 *resided at the time of filing the petition or had legal residence at the time the petition was filed.*

430 *AB.* Upon receiving a petition and order of reference from the circuit court, the applicable agency
431 shall make a thorough investigation of the matter and report thereon in writing, in such form as the
432 Commissioner may prescribe, to the circuit court within ~~90~~ 60 days after the copy of the petition and all
433 exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the
434 Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the
435 circuit court. On the report to the circuit court there shall be appended either acceptance of service or
436 certificate of the local director, or the representative of the child-placing agency, that copies were served
437 as this section requires, showing the date of delivery or mailing. ~~The Commissioner may notify the~~
438 ~~circuit court within 21 days of the date of delivery or mailing of the report as shown by the agency,~~
439 ~~during which time the circuit court shall withhold consideration of the merits of the petition pending~~
440 ~~review of the agency report by the Commissioner, of any disapproval thereof stating reasons for any~~
441 ~~further action on the report that he deems necessary~~ *The circuit court shall expeditiously consider the*
442 *merits of the petition upon receipt of the report. -*

443 *BC.* If the report is not made to the circuit court within the periods specified, the circuit court may
444 proceed to hear and determine the merits of the petition and enter such order or orders as the circuit
445 court may deem appropriate.

446 *CD.* The investigation requested by the circuit court shall include, in addition to other inquiries that
447 the circuit court may require the child-placing agency or local director to make, inquiries as to (i)
448 whether the petitioner is financially able, except as provided in Chapter 13 (§ 63.2-1300 et seq.) of this
449 title, morally suitable, in satisfactory physical and mental health and a proper person to care for and to
450 train the child; (ii) what the physical and mental condition of the child is; (iii) why the parents, if living,
451 desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what
452 their attitude is toward the proposed adoption; (iv) whether the parents have abandoned the child or are
453 morally unfit to have custody over him; (v) the circumstances under which the child came to live, and is
454 living, in the ~~same home~~ *physical custody* of the petitioner; (vi) whether the child is a suitable child for
455 adoption by the petitioner; and (vii) what fees have been paid by the petitioners or on their behalf to
456 persons or agencies that have assisted them in obtaining the child. Any report made to the circuit court
457 shall include a recommendation as to the action to be taken by the circuit court on the petition. A copy
458 of any report made to the circuit court shall be furnished to counsel of record representing the adopting
459 parent or parents. When the investigation reveals that there may have been a violation of § 63.2-1200 or
460 § 63.2-1218, the local director or child-placing agency shall so inform the circuit court and the
461 Commissioner.

462 *DE.* The report shall include the relevant physical and mental history of the birth parents if known to
463 the person making the report. The child-placing agency or local director shall document in the report all
464 efforts they made to encourage birth parents to share information related to their physical and mental
465 history. However, nothing in this subsection shall require that an investigation of the physical and
466 mental history of the birth parents be made.

467 *EF.* If the specific provisions set out in §§ 63.2-1228, 63.2-1238, 63.2-1242 and 63.2-1244 do not
468 apply, the petition and all exhibits shall be forwarded to the local director where the petitioners reside or
469 to a licensed child-placing agency.

470 § 63.2-1210. Probationary period, interlocutory order and order of reference not required under
471 certain circumstances.

472 The circuit court may omit the probationary period and the interlocutory order and enter a final order
473 of adoption under the following circumstances:

474 1. If the child is legally the child by birth or adoption of one of the petitioners and if the circuit
475 court is of the opinion that the entry of an interlocutory order would otherwise be proper. -

476 2. *If one of the petitioners is a stepparent of the child and the circuit court is of the opinion that the*
477 *entry of an interlocutory order would otherwise be proper. The court may omit the order of reference if*
478 *the petitioners meet the requirements of § 63.2-1241.*

479
480 23. After receipt of the report required by § 63.2-1208, if the child has been placed in the ~~home~~
481 *physical custody* of the petitioner by a child-placing agency and (i) the placing or supervising agency
482 certifies to the circuit court that the child has lived in the ~~home~~ *physical custody* of the petitioner
483 continuously for a period of at least six months immediately preceding the filing of the petition and has
484 been visited by a representative of such agency at least three times within a six-month period, provided
485 there are not less than ninety days between the first visit and the last visit, and (ii) the circuit court is of
486 the opinion that the entry of an interlocutory order would otherwise be proper. The circuit court may,
487 for good cause shown, in cases of placement by a child-placing agency, omit the requirement that the
488 ~~three visits be made in the six months immediately preceding the filing of the petition; provided that~~
489 ~~such visits were made in some six-month period preceding the filing within a six-month period.~~

490 34. After receipt of the report, if the child has ~~resided in the home~~ *been in physical custody* of the

petitioner continuously for at least three years immediately prior to the filing of the petition for adoption, and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper.

4. When a child has been placed by the birth parent with the prospective adoptive parent who is the child's grandparent, adult brother or sister, adult uncle or aunt, or adult great uncle or great aunt and the circuit court has accepted the written consent of the birth parent in accordance with § 63.2-1202, and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper. If the circuit court determines the need for an investigation prior to the final order of adoption, it shall refer the matter to the local director or a licensed child - placing agency for an investigation and report, which shall be completed within such time as the circuit court designates.

5. After receipt of the report, if the child has been legally adopted according to the laws of a foreign country with which the United States has diplomatic relations and if the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper, and the child (i) has resided in the home been in the physical custody of the petitioners for at least one year immediately prior to the filing of the petition, and a representative of a child-placing agency has visited the petitioner and child at least once in the six months immediately preceding the filing of the petition or during its investigation pursuant to § 63.2-1208 or (ii) has resided in the home been in the physical custody of the petitioners for at least six months immediately prior to the filing of the petition, has been visited by a representative of a child-placing agency or of the local department three times within such six-month period with no fewer than ninety days between the first and last visits, and the three visits have last visit has occurred within eight six months immediately prior to the filing of the petition.

6. After receipt of the report, if the child was placed into Virginia from a foreign country in accordance with § 63.2-1104, and if the child has resided in the home been in the physical custody of the petitioner for at least six months immediately prior to the filing of the petition and has been visited by a representative of a licensed child-placing agency or of the local department three times within the six-month period with no fewer than ninety days between the first and last visits, and the three visits have occurred within eight months immediately prior to the filing of the petition. The circuit court may, for good cause shown, in cases of an international placement, omit the requirement that the three visits be made within a six-month period.

§ 63.2-1213. Final order of adoption.

After the expiration of six months from the date upon which the interlocutory order is entered, and after considering After consideration of the report made pursuant to § 63.2-1212 or as permitted pursuant to § 63.2-1210, if the circuit court is satisfied that the best interests of the child will be served thereby, the circuit court shall enter the final order of adoption, provided that the child has been in the physical custody of the petitioner for at least six months immediately prior to entry of the order. However, a final order of adoption shall not be entered until information has been furnished by the petitioner in compliance with § 32.1-262 unless the circuit court, for good cause shown, finds the information to be unavailable or unnecessary. No circuit court shall deny a petitioner a final order of adoption for the sole reason that the child was placed in the adoptive home in the physical custody of the petitioner by a person not authorized to make such placements pursuant to § 63.2-1200. An attested copy of every final order of adoption shall be forwarded, by the clerk of the circuit court in which it was entered, to the Commissioner and to the child-placing agency that placed the child or to the local director, in cases where the child was not placed by an agency.

§ 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and objection to entrustment; copy required to be furnished; requirement for agencies outside the Commonwealth.

A. For the purposes of this section, a birth parent who is less than 18 years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement that provides for the termination of all parental rights and responsibilities, and perform all acts related to adoption and shall be as fully bound thereby as if such birth parent had attained the age of 18 years.

B. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born out of wedlock if the identity of the birth father is not reasonably ascertainable, or if such birth father is —the putative birth father did not register with the Putative Father Registry pursuant to Article 8 (§ 63.2-1251 et seq.) of this chapter or the putative birth father named by the birth mother denies under oath and in writing paternity of the child. The mother may, but is not required to identify a father who is not acknowledged pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202.

C. When a birth father is required to be given notice, he may be given notice of the entrustment by registered or certified mail to his last known address and. If he fails to object to the entrustment within 24 10 days of the mailing of such notice his entrustment shall not be required. Such objection shall be

in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the agency that mailed the notice of entrustment within the time period specified in § 63.2-1223. An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the birth mother and the birth father.

D. The execution of an entrustment agreement shall be required of a presumed father except under the following circumstances: (i) if he denies paternity under oath and in writing in accordance with subsection D of § 63.2-1202; (ii) if the presumption is rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child; (iii) if another man admits, in writing and under oath, that he is the biological father; or (iv) if an adoptive placement has been determined to be in the best interests of the child pursuant to § 63.2-1205.

E. When none of the provisions of subsection D apply, notice of the entrustment shall be given to the presumed father pursuant to the requirements of § 16.1-277.01.

F. An entrustment agreement for the termination of all parental rights and responsibilities with respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation.

G. A birth father not married to the mother of the child may execute an entrustment agreement for the termination of all of his parental rights prior to the birth of the child. Such entrustment shall be subject to the revocation provisions of § 63.2-1223.

H. No entrustment shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with the respect to the adoption of the child and cannot be withdrawn.

I. A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

J. When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates executes an entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall apply. The birth parent may expressly waive, under oath and in writing, the execution of the entrustment under the requirements of §§ 63.2-1221 through 63.2-1224 in favor of the execution of an entrustment or relinquishment under the laws of another state if the birth parent is represented by independent legal counsel. Such written waiver shall expressly state that the birth parent has received independent legal counsel advising of the laws of Virginia and of the other state and that Virginia law is expressly being waived. The waiver also shall include the name, address, and telephone number of such legal counsel. Any entrustment agreement that fails to comply with such requirements shall be void.

§ 63.2-1223. Revocation of entrustment agreement.

A valid entrustment agreement terminating all parental rights and responsibilities to the child shall be revocable by either of the birth parents until (i) the child has reached the age of ~~twenty-five~~ 10 days and (ii) ~~fifteen~~ seven days have elapsed from the date of execution of the agreement. In addition, a valid entrustment agreement shall be revocable by either of the birth parents if the child has not been placed in the ~~home~~ physical custody of adoptive parents at the time of such revocation. Revocation of an entrustment agreement shall be in writing and signed by the revoking party. The written revocation shall be delivered to the child-placing agency or local board to which the child was originally entrusted. Delivery of the written revocation shall be made during the business day of the child-placing agency or local board to which the child was originally entrusted, in accordance with the applicable time period set out in this section. If the revocation period expires on a Saturday, Sunday, legal holiday or any day on which the agency or local board is officially closed, the revocation period shall be extended to the next day that is not a Saturday, Sunday, legal holiday or other day on which the agency or local board is officially closed. Upon revocation of the entrustment agreement, the child shall be returned to the parent revoking the agreement.

§ 63.2-1225. Determination of appropriate home.

A. In determining the appropriate home in which to place a child for adoption, a married couple or an unmarried individual shall be eligible to receive placement of a child for purposes of adoption. When ~~an~~ a licensed child-placing agency or a local board accepts custody of the child for the purpose of placing the child for adoption with adoptive parents who have been designated by the birth parents, the

agency or local board may give consideration for placement of the child to the designated adoptive parents if the agency or local board finds such placement to be in the best interests of the child. In addition, the agency or board may consider the recommendations of shall consider the recommendations of the birth parent(s), a physician or attorney licensed in the Commonwealth, or a clergyman who is familiar with the situation of the prospective adoptive parents parent(s) or the child. The No birth parent, physician, attorney or clergyman shall not advertise that he is available to make recommendations, nor shall he charge any fee for recommending such a placement such recommendations to a board or agency, and shall not advertise that he is available to make such recommendations except that an attorney may charge for legal fees and services rendered in connection with such placement.

B. The agency or local board may give consideration to placement of the child with the recommended adoptive parent(s) if the agency or local board finds that such placement is in the best interest of the child. When the birth parent(s) has recommended such placement, the agency or local board shall provide the birth parent(s) the opportunity to be represented by independent legal counsel as well as the opportunity for counseling with a social worker. The agency or board also shall advise the prospective adoptive parent(s) of the right to be represented by independent legal counsel. The parties may, but are not required to, exchange identifying information as provided for in subdivision A 3 of § 63.2-1232. -

§ 63.2-1226. When birth parents recommend adoptive parents.

When a licensed child-placing agency or a local board is requested to and 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 parent(s) recommended by the birth parent(s) or a person other than a licensed child-placing agency or local board, either the parental placement adoption provisions or the agency adoption provisions of this chapter shall apply to such placement at the election of the birth parent(s). Such agency or local board shall provide information to the birth parent(s) regarding the parental placement adoption and agency adoption provisions and shall provide the birth parent the opportunity to be represented by independent legal counsel as well as counseling with a social worker. No person shall charge, pay, give, or agree to give or accept any money, property, services, or other thing of value in connection with such adoption except as provided in § 63.2-1218.

§ 63.2-1227. Filing of petition for agency adoption.

A petition for the adoption of a child placed in the home physical custody of the petitioners by a child-placing agency shall be filed in the name by which the child will be known after adoption, provided the name is followed by the registration number of the child's original birth certificate and the state or country in which the registration occurred unless it is verified by the registrar of vital statistics of the state or country of birth that such information is not available. In the case of a child born in another country, an affidavit by a representative of the child-placing agency that a birth certificate number is not available may be substituted for verification by a registrar of vital statistics for that country. The report of investigation required by § 63.2-1208 and, when applicable, the report required by § 63.2-1212 shall be identified with the child's name as it appears on the birth certificate, the birth registration number and the name by which the child is to be known after the final order of adoption is entered. The petition for adoption shall not state the birth name of the child or identify the birth parents unless it is specifically stated in the agency's consent that the parties have exchanged identifying information.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents, and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

§ 63.2-1228. Forwarding of petition.

Upon the filing of the petition, the circuit court shall, upon being satisfied as to proper jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to conduct an investigation and prepare a report pursuant to § 63.2-1208. Upon entry of the order of reference, the court shall forward a copy of the petition and all exhibits thereto to the Commissioner and to the agency that placed the child. In cases where the child was placed by an agency in another state, or by an agency, court, or other entity in another country, the petition and all exhibits shall be forwarded to the local director or licensed child-placing agency, whichever agency completed the home study or provided supervision. If no Virginia agency provided such services, or such agency is no longer licensed or has gone out of business, the petition and all exhibits shall be forwarded to the local director of the locality where the petitioners reside or resided at the time of filing the petition, or had legal residence at the time of the filing of the petition.

§ 63.2-1231. Home study; simultaneous meeting required; exception.

Prior to the consent hearing in the juvenile and domestic relations district court, a home study of the adoptive parent(s) shall be completed by a licensed or duly authorized child - placing agency in accordance with regulations adopted by the Board. The home study shall make inquiry as to (i) whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if known; (iii) the circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive family or in their behalf in the placement and adoption of the child; (v) whether the requirements of subdivisions A 1, A 2, A 3 and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified by the circuit court. In the course of the home study, the agency social worker shall meet at least once with the birth parent(s) and prospective adoptive parents simultaneously. ~~When the child has been placed with prospective adoptive parents who are related to the child as specified in subdivision 6 of § 63.2-1233, this meeting is not required.~~

§ 63.2-1232. Requirements of a parental placement adoption.

A. The juvenile and domestic relations district court shall not accept consent until it determines that:

1. The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced.

2. A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption.

3. The birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, *unless both parties agree in writing to waive the disclosure of full names and addresses.*

4. Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists.

5. There has been no violation of the provisions of § 63.2-1218 in connection with the placement; however, if it appears there has been such violation, the court shall not reject consent of the birth parent to the adoption for that reason alone but shall report the alleged violation as required by § 63.2-1219.

6. A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with regulations established by the Board and has provided to the court a report of such home study, which shall contain the agency's recommendation regarding the suitability of the placement. A married couple or an unmarried individual shall be eligible to receive placement of a child for adoption.

7. The birth parent(s) have been informed of their opportunity to be represented by legal counsel.

B. The juvenile and domestic relations district court shall not accept the consent if the requirements of subsection A have not been met. In such cases, it shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation in accordance with §§ 63.2-1208 and 63.2-1238. If the juvenile and domestic relations district court determines that any of the parties is financially unable to obtain the required services, it shall refer the matter to the local director.

§ 63.2-1233. Consent to be executed in juvenile and domestic relations district court; exceptions.

When the juvenile and domestic relations district court is satisfied that all requirements of § 63.2-1232 have been met with respect to at least one birth parent and the adoptive child is at least 40 days old in the third calendar day of life, that birth parent or both birth parents, as the case may be, shall execute consent to the proposed adoption in compliance with the provisions of § 63.2-1202 while before the juvenile and domestic relations district court in person and in the presence of the prospective adoptive parents. The juvenile and domestic relations district court shall accept the consent of the birth parent(s) and transfer custody of the child to the prospective adoptive parents, pending notification to any nonconsenting birth parent, as described hereinafter.

1. a. The execution of consent before the juvenile and domestic relations district court shall not be required of a birth father who is not married to the mother of the child at the time of the child's conception or birth if (i) the birth father consents under oath and in writing to the adoption; (ii) ~~the birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable;~~ (iii) the identity of the birth father is ascertainable and his whereabouts are known; he is given notice of the proceedings by registered or certified mail to his last known address and he fails to object to the proceeding within 21 days of the mailing of such notice. Such objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the

business day of the court, within the time period specified in this section. Failure of the objecting party to appear at the consent hearing, either in person or by counsel, shall constitute a waiver of such objection; or (iv) the putative birth father named by the birth mother denies under oath and in writing paternity of the child. An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the juvenile and domestic relations district court that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the birth mother and the birth father.

b. *The consent of a birth father who is not married to the mother of the child at the time of the child's conception or birth shall not be required if the putative father did not register with the Putative Father Registry pursuant to Article 8 (§ 63.2-1251 et seq.) of this chapter or if the putative father named by the birth mother denies under oath and in writing the paternity of the child. The mother may, but is not required to identify the father who is not acknowledged pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202.*

c. *When a birth father is required to be given notice, he may be given notice of the adoption by registered or certified mail to his last known address and if he fails to object to the adoption within 10 days of the mailing of such notice, his consent shall not be required. An objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the court, within the time period specified in this section. Failure of the objecting party to appear at any scheduled hearing, either in person or by counsel, shall constitute a waiver of such objection.*

d. The juvenile and domestic relations district court may accept the written consent of the birth father who is not married to the birth mother of the child at the time of the child's conception or birth, provided that the identifying information required in § 63.2-1232 is filed in writing with the juvenile and domestic relations district court of jurisdiction. Such consent shall be executed after the birth of the child, shall advise the birth father of his opportunity for legal representation, and shall be presented to the juvenile and domestic relations district court for acceptance. The consent may waive further notice of the adoption proceedings and shall contain the name, address and telephone number of the birth father's legal counsel or an acknowledgment that he was informed of his opportunity to be represented by legal counsel and declined such representation.

ee. In the event that the birth mother's consent is not executed in the juvenile and domestic relations district court, the consent of the birth father who is not married to the birth mother of the child shall be executed in the juvenile and domestic relations district court.

ff. *A child born to a married birth mother shall be presumed to be the child of her husband and his consent shall be required, unless the court finds that the father's consent is withheld contrary to the best interests of the child as provided in § 63.2-1205 or if his consent is unobtainable. The consent of such presumed father shall be under oath and in writing and may be executed in or out of court. ThisThe presumption that the husband is the father of the child may be rebutted by sufficient evidence, satisfactory to the juvenile and domestic relations district court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child, in which case the husband's consent shall not be required. If the court is satisfied that the presumption has been rebutted, notice of the adoption shall not be required to be given to the presumed father.*

2. A birth parent whose consent is required as set forth in § 63.2-1202, whose identity is known and who neither consents before the juvenile and domestic relations district court as described above, nor executes a written consent to the adoption or a denial of paternity out of court as provided above, shall be given notice, including the date and location of the hearing, of the proceedings pending before the juvenile and domestic relations district court and be given the opportunity to appear before the juvenile and domestic relations district court. Such hearing may occur subsequent to the proceeding wherein the consenting birth parent appeared but may not be held until 21 days after personal service of notice on the nonconsenting birth parent, or if personal service is unobtainable, 10 days after the completion of the execution of an order of publication against such birth parent. The juvenile and domestic relations district court may appoint counsel for the birth parent(s). If the juvenile and domestic relations district court finds that consent is withheld contrary to the best interests of the child, as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without such consent and enter an order waiving the requirement of consent of the nonconsenting birth parent and transferring custody of the child to the prospective adoptive parents; ~~which order shall become effective 15 days thereafter.~~ If the juvenile and

domestic relations district court denies the petition, the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement shall be void and, if necessary, the court shall determine custody of the child as between the birth parents.

3. Except as provided in subdivision 4, if consent cannot be obtained from at least one birth parent, the juvenile and domestic relations district court shall deny the petition and determine custody of the child pursuant to § 16.1-278.2.

4. If the child was placed by the birth parent(s) with the prospective adoptive parents and if both birth parents have failed, without good cause, to appear at a hearing to execute consent under this section for which they were given proper notice pursuant to § 16.1-264, the juvenile and domestic relations district court may grant the petition without the consent of either birth parent and enter an order waiving consent and transferring custody of the child to the prospective adoptive parents, which order shall become effective 15 days thereafter. Prior to the entry of such an order, the juvenile and domestic relations district court may appoint legal counsel for the birth parents and shall find by clear and convincing evidence (i) that the birth parents were given proper notice of the hearing(s) to execute consent and of the hearing to proceed without their consent; (ii) that the birth parents failed to show good cause for their failure to appear at such hearing(s); and (iii) that pursuant to § 63.2-1205, the consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable.

Under this subdivision, the court may waive the requirement of the simultaneous meeting under § 63.2-1231 and the requirements of subdivisions A 1, A 3, and A 7 of § 63.2-1232 where the opportunity for compliance is not reasonably available under the applicable circumstances.

5. If both birth parents are deceased, the juvenile and domestic relations district court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

6. When a child has been placed by the birth parent(s) with prospective adoptive parents who are the child's grandparents, adult brother or sister, adult uncle or aunt or adult great uncle or great aunt, consent does not have to be executed in the juvenile and domestic relations district court in the presence of the prospective adoptive parents. The juvenile and domestic relations district court may accept written consent that has been signed and acknowledged before an officer authorized by law to take acknowledgments. No hearing shall be required for the court's acceptance of such consent.

When such child has resided in the home of the prospective adoptive parent(s) continuously for three or more years, this section shall not apply, and consent shall be executed in accordance with subsection E of § 63.2-1202.

7. No consent shall be required from the birth father of a child placed pursuant to this section when such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the proceedings under this section.

7. No consent shall be required of a birth father if he denies under oath and in writing the paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights with the respect to the adoption of the child and cannot be withdrawn.

8. A birth father not married to the mother of the child may consent to the termination of all of his parental rights prior to the birth of the child.

89. The juvenile and domestic relations district court shall review each order entered under this section at least annually until such time as the final order of adoption is entered.

§ 63.2-1234. When consent is revocable.

Consent shall be revocable as follows:

1. By either consenting birth parent for any reason for up to ~~fifteen~~ 10 days from its execution. *Once the child is 10 days old no executed consent can be withdrawn.*

a. Such revocation shall be in writing, signed by the revoking party or counsel of record for the revoking party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the juvenile and domestic relations district court, within the time period specified in this section. If the revocation period expires on a Saturday, Sunday, legal holiday or any day on which the clerk's office is closed as authorized by statute, the revocation period shall be extended to the next day that is not a Saturday, Sunday, legal holiday or other day on which the clerk's office is closed as authorized by statute.

b. Upon the filing of a valid revocation within the time period set out in this section, the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement is void and, if necessary, the juvenile and domestic relations district court shall determine custody of the child as between the birth parents.

2. By any party prior to the final order of adoption (i) upon proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written, mutual consent of the birth parents and prospective adoptive parents.

§ 63.2-1237. Petition for parental placement adoption; jurisdiction; contents.

Proceedings for the parental placement adoption of a minor child and for a change of name of such child shall be instituted only by petition to the circuit court in the county or city in which the petitioner resides or *in the county or city where a birth parent has executed a consent pursuant to § 63.2-1233.* Such petition may be filed by any natural person who resides in the Commonwealth ~~for~~ *or is the adopting parent(s) of a child who was subject to a consent proceeding held pursuant to § 63.2-1233.* The petition shall ask leave to adopt a minor child not legally ~~his~~ *the petitioner's* by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, the petition shall be the joint petition of the husband and wife but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating his or her consent to the prayer thereof only. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

The petition shall state that the findings required by § 63.2-1232 have been made and shall be accompanied by appropriate documentation supporting such statement, to include copies of documents executing consent and transferring custody of the child to the prospective adoptive parents, and a copy of the report required by § 63.2-1231. The court shall not waive any of the requirements of this paragraph nor any of the requirements of § 63.2-1232 *except as allowed pursuant to subdivision 4 of § 63.2-1233.*

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same birth parent or parents; and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

§ 63.2-1241. Adoption of child by new spouse of birth or adoptive parent.

A. When the spouse of a birth parent of a child born in wedlock or the spouse of a parent by adoption of the child has died, and the surviving birth parent or parent by adoption marries again and the new spouse desires to adopt the child, on a petition filed by the surviving birth parent or parent by adoption and new spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director.

B. When a birth parent of a legitimate infant or a parent by adoption is divorced and marries again and the birth parent or parent by adoption desires the new spouse to adopt the child, on a petition filed by the birth parent or parent by adoption and the new spouse for the adoption and change of name of the child, *or if the child is the result of surrogacy*, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director if the other birth parent or parent by adoption consents in writing to the adoption or change of name or if the other birth parent or parent by adoption is deceased.

C. When the custodial birth parent of a child born to parents who were not married to each other at the time of the child's conception or birth marries and the new spouse of such custodial birth parent desires to adopt such child, on a petition filed by the custodial birth parent and spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption and change of name without referring the matter to the local director if (i) the noncustodial birth parent consents, under oath, in writing to the adoption, or (ii) the mother swears, under oath, in writing, that the identity of the father is not reasonably ascertainable, or (iii) the putative father named by the mother denies paternity of the child, or (iv) the child is fourteen years of age or older and has lived in the home of the person desiring to adopt the child for at least five years, or (v) the noncustodial birth parent is deceased, *or (vi) the noncustodial birth parent executes a denial of paternity under oath and in writing, or (vii) the noncustodial birth parent:*

- a. Is not an acknowledged father pursuant to § 20-49.1; and*
- b. Is not an adjudicated father pursuant to § 20-49.8; and*
- c. Is not a presumed father; and*
- d. Is not a putative father who has registered with the Putative Father Registry pursuant to Article 8 (§ 63.2-1251 et seq.) of this chapter.*

D. When a single person who has adopted a child thereafter marries and desires his spouse to adopt the child, on a petition filed by the adoptive parent and the spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption or change of name without referring the matter to the local director.

Article 4.1.

Close Relative Adoption.

921 § 63.2-1242.1. *Close relative adoption.*

922 A. *For the purposes of this chapter, a "close relative placement" shall be an adoption by the child's*
923 *grandparent, great-grandparent, adult brother or sister, adult uncle or aunt, or adult great uncle or*
924 *great aunt.*

925 B. *In a close relative placement the court may accept the written and signed consent of the birth*
926 *parent(s) that is signed under oath and acknowledged by an officer authorized by law to take such*
927 *acknowledgements.*

928 § 63.2-1242.2. *Close relative adoption; child in home less than three years.*

929 A. *When the child has continuously resided in the home or has been in the continuous physical*
930 *custody of the prospective adoptive parent(s) who is a close relative for less than three years, the*
931 *adoption proceeding shall commence in the juvenile and domestic relations district court pursuant to the*
932 *parental placement adoption provisions of this chapter with the following exceptions:*

933 1. *The birth parent(s)' consent does not have to be executed in juvenile and domestic relations*
934 *district court in the presence of the prospective adoptive parents.*

935 2. *The simultaneous meeting specified in § 63.2-1231 is not required.*

936 3. *No hearing is required for this proceeding.*

937 B. *Upon the juvenile and domestic relations district court issuing an order accepting consents or*
938 *otherwise dealing with birth parents rights and appointing the close relative(s) custodian of the child,*
939 *the close relative(s) may file a petition in the circuit court as provided in Article 1 (§ 63.2-1200 et seq.)*
940 *of this chapter.*

941 C. *For adoptions under this section:*

942 1. *An order of reference, an investigation and report shall not be made if the home study report is*
943 *filed with the circuit court unless the circuit court in its discretion requires an investigation and report*
944 *to be made.*

945 2. *The circuit court may omit the probationary period and the interlocutory order and enter a final*
946 *order of adoption when the court is of the opinion that the entry of an interlocutory order would*
947 *otherwise be proper.*

948 3. *If the circuit court determines that there is a need for an additional investigation, it shall refer*
949 *the matter to the licensed child-placing agency that drafted the home study report for an investigation*
950 *and report, which shall be completed within such times as the circuit court designates.*

951 § 63.2-1242.3. *Close relative placement; child in home for three years or more.*

952 *When the child has continuously resided in the home or has been in the continuous physical custody*
953 *of the prospective adoptive parent(s) who is a close relative for three or more years, the parental*
954 *placement provisions of this chapter shall not apply and the adoption proceeding shall commence in the*
955 *circuit court.*

956 *For adoptions under this section:*

957 1. *An order of reference, an investigation and report shall not be made unless the circuit court in its*
958 *discretion shall require an investigation and report to be made.*

959 2. *The circuit court may omit the probationary period and the interlocutory order and enter a final*
960 *order of adoption when the court is of the opinion that the entry of an interlocutory order would*
961 *otherwise be proper.*

962 3. *If the circuit court determines the need for an investigation, it shall refer the matter to the local*
963 *director of the department of social services for an investigation and report, which shall be completed in*
964 *such time as the circuit court designates.*

965 § 63.2-1243. *Adoption of certain persons eighteen years of age or over.*

966 A *petition may be filed in circuit court by any natural person who is a resident of this*
967 *Commonwealth (i) for the adoption of a stepchild eighteen years of age or over to whom he has stood*
968 *in loco parentis for a period of at least three months; (ii) for the adoption of a ~~niece or nephew over~~*
969 *close relative as defined in § 63.2-1242.1, eighteen years of age who has no living parents and who has*
970 *lived in the home of the petitioner for at least three months or older; (iii) for the adoption of any person*
971 *eighteen years of age or ~~over~~ older who is the birth child of the petitioner or who had resided in the*
972 *home of the petitioner for a period of at least three months prior to becoming eighteen years of age; or*
973 *(iv) for the adoption of any person eighteen years of age or older, for good cause shown, provided that*
974 *the person to be adopted is at least fifteen years younger than the petitioner and the petitioner and the*
975 *person to be adopted have known each other for at least five years one year prior to the filing of the*
976 *petition for adoption; and provided further that both the petitioner and the person to be adopted have*
977 *been residents of the Commonwealth for at least two years immediately prior to the filing of the*
978 *petition. Proceedings in any such case shall conform as near as may be to proceedings for the adoption*
979 *of a minor child under this chapter except that:*

980 (a) *No consent of either parent shall be required; and*

981 (b) *The consent of the person to be adopted shall be required in all cases.*

982 *Any interlocutory or final order issued in any case under this section shall have the same effect as*

other orders issued under this chapter; and in any such case the word "child" in any other section of this chapter shall be construed to refer to the person whose adoption is petitioned for under this section. The entry of a final order of adoption pursuant to this section which incorporates a change of name shall be deemed to meet the requirements of § 8.01-217.

The provisions of this section shall apply to any person who would have been eligible for adoption hereunder prior to July 1, 1972.

Article 7.

Confidentiality.

§ 63.2-1249. *Release of identifying information; child-placing agency.*

Where the adoption is finalized on or after July 1, 2006, a child-placing agency may divulge identifying information if it is of the opinion that such information would be in the best interests of the child and the agency has the written consent of the birth parent(s) and the adoptive parent(s). If the adopted person is 21 years of age or older, the child-placing agency may accept the adopted person's consent in lieu of the adoptive parent(s). When the child-placing agency contacts any individual for consent, it shall approach the individual in a confidential and sensitive manner and provide any reasonable counseling it deems appropriate.

§ 63.2-1250. *Court proceedings; duty of attorney.*

A. If requested by the adoptive petitioner, birth parent(s), or adoption agency to maintain confidentiality in the proceedings, the court shall maintain the confidentiality of identifying information. Identifying information for the purposes of this article shall include names, addresses, and any other information that could reasonably lead to the discovery of a person's identity. This provision shall not apply to at least one birth parent if parental placement adoption procedures are being utilized pursuant to § 63.2-1232.

B. Petitions for adoption, petitions to accept consents, and entrustment agreements shall not be served on any opposing party. Instead, a notice of the proceedings, as provided by statute, shall be served when required. Home studies, reports of home studies, court reports, licensed child-placing agency records, local social service agency records, and the Commissioner's records shall not be available to anyone opposing an adoption without specific approval of the court hearing the adoption proceeding after determining whether the release of any such information would benefit the interests of the child and only after the opportunity to review and redact identifying information or information the court adjudicates as not relevant to the proceedings.

C. Whenever an attorney is provided with or learns of identifying information regarding another party whose identity is not known to the attorney's client, the attorney shall not knowingly and intentionally reveal the identifying information to the client.

Article 8.

Putative Father Registry.

§ 63.2-1251. *Establishment of Registry.*

A. A Putative Father Registry is hereby established in the Department of Social Services.

B. There is hereby created in the state treasury a special nonreverting fund to be known as the Putative Father Registry Fund, hereafter referred to as "the Fund." The Fund shall be established on the books of the Comptroller. All moneys collected under § 63.2-1201 shall be paid into the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of each fiscal year shall not revert to the general fund but shall remain in the Fund. Moneys in the Fund shall be used solely for the purposes of administration of the Putative Father Registry. Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued by the Comptroller upon written request signed by the Commissioner or his designee.

§ 63.2-1252. *Registration; notice; form.*

A. Except as otherwise provided in subsection C, a man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered shall register with the Putative Father Registry before the birth of the child or within 10 days after the birth. A registrant shall promptly notify the registry of any change in the information registered including but not limited to change of address. The Department shall incorporate all new information received into its records but is not required to obtain current information for incorporation in the registry.

B. A man will not prejudice any rights by failing to register if:

1. A father-child relationship between the man and the child has been established pursuant to § 20-49.1; or

2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent or waive adoption consent is filed in the juvenile and domestic relations district court, or a petition for adoption or a petition for the termination of his parental rights is filed with the court.

C. Failure to register pursuant to subsection A shall waive all rights of a man who is not an

acknowledged, presumed, or adjudicated father pursuant to § 20-49.1 to withhold consent to an adoption proceeding unless the man was led to believe through the birth mother's fraud that (i) the pregnancy was terminated or the mother miscarried when in fact the baby was born, or (ii) that the child died when in fact the child is alive. Upon the discovery of the fraud the man shall register with the Putative Father Registry within 10 days.

D. The child-placing agency or adoptive parent(s) shall give notice of a proceeding for the adoption of, or termination of parental rights regarding, a child to a registrant who has timely registered pursuant to subsection A. Notice shall be given pursuant to the requirements of this chapter or § 16.1-277.01 for the appropriate adoption proceeding. -

E. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice that a child may be conceived and the man is entitled to all legal rights and obligations resulting therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely register.

F. The Department shall prepare a form for registering with the agency that shall require (i) the registrant's name, date of birth and social security number; (ii) the registrant's driver's license number and state of issuance; (iii) the registrant's home address, telephone number and employer; (iv) name, date of birth, ethnicity, address and telephone number of the putative mother, if known; (v) state of conception; (vi) place and date of birth of the child, if known; and (vii) name and gender of the child, if known.

G. The form shall also state that (i) timely registration entitles the registrant to notice of a proceeding for adoption of the child or termination of the registrant's parental rights, (ii) registration does not commence a proceeding to establish paternity, (iii) the information disclosed on the form may be used against the registrant to establish paternity, (iv) services to assist in establishing paternity are available to the registrant through the Department, (v) the registrant should also register in another state if conception or birth of the child occurred in another state, (vi) information on registries of other states may be available from the Department, (vii) that the form is signed under penalty of perjury, and (viii) procedures exist to rescind the registration of a claim of paternity.

§ 63.2-1253. Furnishing information; confidentiality; penalty.

A. The Department is not required to locate the mother of a child who is the subject of a registration, but the Department shall send a copy of the notice of registration to the mother if an address is provided.

B. Information contained in the registry is confidential and may only be released on request to:

1. A court or a person designated by the court;
2. The mother of the child who is the subject of the registration;
3. An agency authorized by law to receive such information;
4. A licensed child-placing agency;
5. A support enforcement agency;
6. A party or the party's attorney of record in an adoption proceeding, or in a proceeding of termination of parental rights, regarding a child who is the subject of the registration; and
7. A putative father registry in another state.

C. Information contained in the registry shall be exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.).

D. An individual who intentionally releases information from the registry to an individual or agency not authorized to receive the information in this section is guilty of a Class 4 misdemeanor.

§ 63.2-1254. Search of registry.

A. If no father-child relationship has been established pursuant to § 20-49.1, a petitioner for adoption shall obtain from the Department a certificate that a search of the Putative Father Registry was performed. If the conception or birth of the child occurred in another state, a petitioner for adoption shall obtain a certificate from that state indicating that a search of the putative father registry was performed, if that state has a putative father registry.

B. The Department shall furnish to the requester a certificate of search of the registry upon the request of an individual, court, or agency listed in § 63.2-1253. Any such certificate shall be signed on behalf of the Department and state that a search has been made of the registry and a registration containing the information required to identify the registrant has been found and is attached to the certificate of search or has not been found. Within four business days from the receipt of the request, the Department shall mail the certificate to the requestor by United States mail. Upon request of the requestor and payment of any additional costs, the Department shall have the certificate delivered to the requestor by overnight mail, in person, by messenger, by facsimile or other electronic communication. The Department's certificate or an appropriate certificate from another state shall be sufficient proof the registry was searched.

C. A petitioner shall file the certificate of search with the court before a proceeding for adoption of, or termination of parental rights regarding, a child may be concluded.

D. A certificate of search of the Putative Father Registry is admissible in a proceeding for adoption

of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

§ 63.2-1255. Duty to publicize registry.

A. The Department shall produce and distribute a pamphlet or other publication informing the public about the Putative Father Registry including (i) the procedures for voluntary acknowledgement of paternity, (ii) the consequences of acknowledgement and failure to acknowledge paternity pursuant to § 20-49.1, (iii) a description of the Putative Father Registry including to whom and under what circumstances it applies, (iv) the time limits and responsibilities for filing, (v) paternal rights and associated responsibilities, and (vi) other appropriate provisions of this article.

B. Such pamphlet or publication shall include a detachable form that meets the requirements of subsection F of § 63.2-1252, is suitable for United States mail, and is addressed to the Putative Father Registry. Such pamphlet or publication shall be made available for distribution at all offices of the Department of Health and all local departments of social services. The Department shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request.

C. The Department shall provide information to the public at large by way of general public service announcements, or other ways to deliver information to the public about the Putative Father Registry and its services.

§ 63.2-1721. Background check upon application for licensure or registration as child welfare agency; background check of foster or adoptive parents approved by child-placing agencies and family day homes approved by family day systems; penalty.

A. Upon application for licensure or registration as a child welfare agency, (i) all applicants; (ii) agents at the time of application who are or will be involved in the day-to-day operations of the child welfare agency or who are or will be alone with, in control of, or supervising one or more of the children; and (iii) any other adult living in the home of an applicant for licensure or registration as a family day home shall undergo a background check. Upon application for licensure as an assisted living facility, all applicants shall undergo a background check. In addition, foster or adoptive parents requesting approval by child-placing agencies and operators of family day homes requesting approval by family day systems, and any other adult residing in the family day home or existing employee or volunteer of the family day home, shall undergo background checks pursuant to subsection B prior to their approval.

B. Background checks pursuant to this section require:

1. A sworn statement or affirmation disclosing whether the person has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the person has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;

2. A criminal history record check through the Central Criminal Records Exchange pursuant to § 19.2-389; and

3. In the case of child welfare agencies or adoptive or foster parents, a search of the central registry maintained pursuant to § 63.2-1515 for any founded complaint of child abuse and neglect.

C. The character and reputation investigation pursuant to § 63.2-1702 shall include background checks pursuant to subsection B of persons specified in subsection A. The applicant shall submit the background check information required in subsection B to the Commissioner's representative prior to issuance of a license, registration or approval. The applicant shall provide an original criminal record clearance with respect to offenses specified in § 63.2-1719 or an original criminal history record from the Central Criminal Records Exchange. Any person making a materially false statement regarding the sworn statement or affirmation provided pursuant to subdivision B 1 shall be guilty of a Class 1 misdemeanor. If any person specified in subsection A required to have a background check has any offense as defined in § 63.2-1719, and such person has not been granted a waiver by the Commissioner pursuant to § 63.2-1723 or is not subject to an exception in subsections E, ~~or~~ F, or G (i) the Commissioner shall not issue a license or registration to a child welfare agency; (ii) the Commissioner shall not issue a license to an assisted living facility; (iii) a child-placing agency shall not approve an adoptive or foster home; or (iv) a family day system shall not approve a family day home.

D. No person specified in subsection A shall be involved in the day-to-day operations of the child welfare agency or shall be alone with, in control of, or supervising one or more of the children without first having completed background checks pursuant to subsection B.

E. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have elapsed following the conviction.

F. Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as a foster parent an applicant convicted of statutory burglary for breaking and entering a

1167 dwelling home or other structure with intent to commit larceny, who has had his civil rights restored by
1168 the Governor, provided 25 years have elapsed following the conviction.

1169 *G. Notwithstanding any provision to the contrary contained in this section, a child-placing agency*
1170 *may approve as an adoptive parent an applicant convicted of felony possession or distribution of drugs,*
1171 *who has had his civil rights restored by the Governor, provided 10 years have elapsed following the*
1172 *conviction.*

1173 *GH.* If an applicant is denied licensure, registration or approval because of information from the
1174 central registry or convictions appearing on his criminal history record, the Commissioner shall provide
1175 a copy of the information obtained from the central registry or the Central Criminal Records Exchange
1176 or both to the applicant.

1177 *HI.* Further dissemination of the background check information is prohibited other than to the
1178 Commissioner's representative or a federal or state authority or court as may be required to comply with
1179 an express requirement of law for such further dissemination.

1180 *IJ.* The provisions of this section referring to a sworn statement or affirmation and to prohibitions on
1181 the issuance of a license for any offense shall not apply to any children's residential facility licensed
1182 pursuant to § 63.2-1701, which instead shall comply with the background investigation requirements
1183 contained in § 63.2-1726.