

VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

CHAPTER 868

An Act to amend and reenact § 63.2-1201 of the Code of Virginia, and to amend the code of Virginia by adding a section numbered 63.2-1201.1, relating to adoption by former spouses.

[S 171]

Approved April 23, 2008

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1201 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1201.1 as follows:

§ 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, in the county or city in which 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, 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 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, *or persons who were previously married who are permitted to adopt a child under § 63.2-1201.1*, the petition shall be the joint petition of the husband and wife *or former spouses* 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. If any procedural provision of this chapter applies to only one adoptive parent, then the court may waive the application of the procedural provision as to the spouse of the adoptive parent. 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 7 (§ 63.2-1249 et seq.) of this chapter.

§ 63.2-1201.1. Previously married persons who stood in loco parentis during the time of the marriage may adopt in the same manner as married persons.

A. A man and woman previously married to each other who stood in loco parentis to a child during their marriage to each other, and who could have adopted or readopted the child pursuant to this chapter while married to each other, but whose marriage is void, has been annulled or has dissolved, may adopt or readopt the child pursuant to the provisions in this chapter that are applicable to married persons.

B. An individual previously married to a parent of a child by birth or adoption, and who stood in loco parentis to that child during the marriage, and who could have adopted the child pursuant to § 63.2-1241 during the marriage, may, with the consent of the prior spouse who is a parent of the child by birth or adoption, adopt the child, after the marriage has been dissolved, annulled or voided, pursuant to the provisions of this chapter that are applicable to step-parents.

C. Any person or persons seeking to adopt or readopt pursuant to this section may be permitted to do so even if they have remarried.

D. Nothing in this section shall be construed to permit any child to have more than two living parents by birth or adoption, who have legal rights and obligations in respect to the child, in the form of one father and one mother.