

VIRGINIA ACTS OF ASSEMBLY -- 2010 SESSION

CHAPTER 306

An Act to amend and reenact §§ 63.2-1241, 63.2-1242.2, and 63.2-1242.3 of the Code of Virginia, relating to stepparent or close relative adoption; appointment of a guardian ad litem not required.

[H 747]

Approved April 9, 2010

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.2-1241, 63.2-1242.2, and 63.2-1242.3 of the Code of Virginia are amended and reenacted as follows:

§ 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 a putative father who has not registered with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter and, if his identity is reasonably ascertainable, he has been provided notice pursuant to § 63.2-1250 and failed to timely register.

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.

E. In any case involving adoption of a child by a stepparent pursuant to this section, the court may waive appointment of a guardian ad litem for the child.

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

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

1. The birth parent(s)' consent does not have to be executed in juvenile and domestic relations district court in the presence of the prospective adoptive parents.
2. The simultaneous meeting specified in § 63.2-1231 is not required.
3. No hearing is required for this proceeding.

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

of this chapter.

C. For adoptions under this section:

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

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

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

4. *The circuit court may waive appointment of a guardian ad litem for the child.*

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

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

For adoptions under this section:

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

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

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

4. *The circuit court may waive appointment of a guardian ad litem for the child.*