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HOUSE BILL NO. 2157

Offered January 12, 2011

Prefiled January 12, 2011

A BILL to amend and reenact §§ 17.1-275, 32.1-261, 63.2-1201, 63.2-1202, 63.2-1210, and 63.2-1220 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.2-1200.1, relating to recognition of foreign adoptions.

Patrons—Iaquinto, Landes, LeMunyon and Toscano

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 17.1-275, 32.1-261, 63.2-1201, 63.2-1202, 63.2-1210, and 63.2-1220 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1200.1 as follows:

§ 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 [Repealed.]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, record, or electronic record to go out of the office, which is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record, each image. 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. 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

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59 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
60 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which
61 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
62 Treatment Fund.

63 11. In any case in which a person is convicted of a violation of any provision of Article 1
64 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk
65 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,
66 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and
67 Treatment Fund as provided in § 17.1-275.8.

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

71 13. In all civil actions that include one or more claims for the award of monetary damages the clerk's
72 fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in
73 cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery
74 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding
75 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established
76 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation
77 case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in
78 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of
79 a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be
80 collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be
81 applicable to cases filed in the Supreme Court of Virginia.

82 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
83 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the
84 time of filing the petition.

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

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

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

95 17. For docketing and indexing a judgment from any other court of this Commonwealth, for
96 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of
97 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment
98 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper
99 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee
100 of \$20.

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

105 19, 20. [Repealed.]

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

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

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

110 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
111 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to
112 a divorce.

113 25. For providing court records or documents on microfilm, per frame, \$0.50.

114 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one
115 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
116 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to
117 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly
118 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the
119 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged
120 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 from the person presenting such credit card a reasonable convenience fee not to exceed 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~~ *subdivision* 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 § 63.2-1249.

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. [Repealed.]

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 \$10.

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.

§ 32.1-261. New birth certificate established on proof of adoption, legitimation or determination of paternity.

A. The State Registrar shall establish a new certificate of birth for a person born in this

182 Commonwealth upon receipt of the following:

183 1. An adoption report as provided in § 32.1-262, a report of adoption prepared and filed in
184 accordance with the laws of another state or foreign country, or a certified copy of the decree of
185 adoption together with the information necessary to identify the original certificate of birth and to
186 establish a new certificate of birth; except that a new certificate of birth shall not be established if so
187 requested by the court decreeing the adoption, the adoptive parents, or the adopted person if 18 years of
188 age or older.

189 2. A request that a new certificate be established and such evidence as may be required by regulation
190 of the Board proving that such person has been legitimated or that a court of the Commonwealth has,
191 by final order, determined the paternity of such person. The request shall state that no appeal has been
192 taken from the final order and that the time allowed to perfect an appeal has expired.

193 3. An order entered pursuant to subsection D of § 20-160. The order shall contain sufficient
194 information to identify the original certificate of birth and to establish a new certificate of birth in the
195 names of the intended parents.

196 4. A surrogate consent and report form as authorized by § 20-162. The report shall contain sufficient
197 information to identify the original certificate of birth and to establish a new certificate of birth in the
198 names of the intended parents.

199 B. When a new certificate of birth is established pursuant to subsection A of this section, the actual
200 place and date of birth shall be shown. It shall be substituted for the original certificate of birth.
201 Thereafter, the original certificate and the evidence of adoption, paternity or legitimation shall be sealed
202 and filed and not be subject to inspection except upon order of a court of this Commonwealth or in
203 accordance with § 32.1-252.

204 C. Upon receipt of a report of an amended decree of adoption, the certificate of birth shall be
205 amended as provided by regulation.

206 D. Upon receipt of notice or decree of annulment of adoption, the original certificate of birth shall be
207 restored to its place in the files and the new certificate and evidence shall not be subject to inspection
208 except upon order of a court of this Commonwealth or in accordance with § 32.1-252.

209 E. The State Registrar shall, *upon request*, establish and register a Virginia certificate of birth for a
210 person born in a foreign country and for whom (i) *an adoption was finalized pursuant to the laws of the*
211 *foreign country and an immediate relative immigrant visa (IR-3) issued by the United States Citizenship*
212 *and Immigration Services, upon receipt of an adoption report as provided in subsection B of*
213 *§ 63.2-1200.1, or (ii) a report or final order of adoption has been entered in a court of this*
214 *Commonwealth when the State Registrar receives, upon receipt of an adoption report as provided in*
215 *§ 32.1-262 and a request that such a certificate be established and registered; however, a Virginia*
216 *certificate of birth shall not be established or registered if so requested by the court decreeing the*
217 *adoption, the adoptive parents, or the adopted person if 18 years of age or older. After registration of*
218 *the birth certificate in the new name of the adopted person, the State Registrar shall seal and file the*
219 *report of adoption which shall not be subject to inspection except upon order of a court of this*
220 *Commonwealth or in accordance with § 32.1-252. The birth certificate shall show the true or probable*
221 *foreign country of birth and shall state that the certificate is not evidence of United States citizenship for*
222 *the child for whom it is issued or for the adoptive parents.*

223 F. If no certificate of birth is on file for the person for whom a new certificate is to be established
224 under this section, a delayed certificate of birth shall be filed with the State Registrar as provided in
225 § 32.1-259 or § 32.1-260 before a new certificate of birth is established, except that when the date and
226 place of birth and parentage have been established in the adoption proceedings, a delayed certificate
227 shall not be required.

228 § 63.2-1200.1. *Recognition of foreign adoption; issuance of birth certificates.*

229 A. *Any adoption of a child born in a foreign country who was not a citizen of the United States at*
230 *birth but who has been admitted to the United States with an immediate relative immigrant visa (IR-3)*
231 *issued by the United States Citizenship and Immigration Services that was finalized pursuant to the laws*
232 *of that country shall be recognized by the Commonwealth and the rights and obligations of the parties*
233 *shall be determined as though the order of adoption was entered by a court of the Commonwealth.*
234 *Adoptive parents of a child whose adoption was finalized in accordance with the laws of a foreign*
235 *country shall not be required to re-adopt the child in Virginia.*

236 B. *In cases in which an adoption has been finalized pursuant to the laws of a foreign country, the*
237 *adoptive parents may submit a report of adoption to the State Registrar of Vital Records on a form*
238 *furnished by the State Registrar, which shall (i) include evidence as to the date, place of birth, and*
239 *parentage of the adopted person; (ii) provide information necessary to establish a new certificate of*
240 *birth for the adopted person; and (iii) include a certified copy of the final order of adoption entered by*
241 *the foreign court, together with a certified translation of the final order of adoption in cases in which*
242 *the original order is not in English. Upon receipt of a report of an adoption finalized in accordance*
243 *with the laws of a foreign country, the State Registrar shall establish a new certificate of birth for the*

adopted person, and such birth certificate shall be registered in accordance with the provisions of § 32.1-261.

§ 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 of the adoptive parents, then the court may waive the application of the procedural provision for the spouse of the adoptive parent to whom the provision applies. 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~~ subdivision 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.~~

A petition filed while the child is under 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption. Any final order of adoption entered pursuant to § 63.2-1213 after a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect as if the child was under 18 years of age at the time the order was entered by the circuit court provided the court has obtained the consent of the adoptee.

§ 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.

C. Consent shall be executed:

1. By 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 D; or
 - d. Has registered with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) ~~of this chapter.~~

Verification of compliance with the notice provisions of the Putative Father Registry shall be provided to the court.

2. 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

3. 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. 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 of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce; or

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 of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after its termination by death, annulment, declaration of invalidity, or divorce.

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.

E. 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 respect to the adoption of the child and cannot be withdrawn.

F. 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.

G. No notice or consent shall be required of any person whose parental rights have been terminated by a court of competent jurisdiction, including foreign courts that have competent jurisdiction. No notice or consent is required of any birth parent of a child whose adoption was finalized in a foreign country or for whom a guardianship order was granted when the child was approved by the United States Citizenship and Immigration Services for purposes of adoption.

H. No consent shall be required of a birth parent who, without just cause, has neither visited nor contacted the child for a period of six months prior to the filing of the petition for adoption. The prospective adoptive parent(s) shall establish by clear and convincing evidence that the birth parent(s), without just cause, has neither visited nor contacted the child for a period of six months prior to the filing of the petition for adoption. This provision shall not infringe upon the birth parent's right to be noticed and heard on the allegation of abandonment. For purposes of this section, the payment of child support, in the absence of other contact with the child, shall not be considered contact.

I. A birth father of the child may consent to the termination of all of his parental rights prior to the birth of the child.

J. The failure of the nonconsenting party to appear at any scheduled hearing, either in person or by counsel, after proper notice has been given to said party, shall constitute a waiver of any objection and right to consent to the adoption.

K. If a birth parent or legal guardian, executing a consent, entrustment, or other documents related to the adoption, cannot provide the identification required pursuant to § 47.1-14, the birth parent may execute a self-authenticating affidavit as to his identity subject to the penalties contained in § 63.2-1217.

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

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

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

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

3. After receipt of the report required by § 63.2-1208, if the child has been placed in the physical custody of the petitioner by a child-placing agency and (i) the placing or supervising agency certifies to the circuit court that the child has lived in the physical custody of the petitioner continuously for a period of at least six months immediately preceding the filing of the petition and has been visited by a representative of such agency at least three times within a six-month period, provided there are not less than ~~ninety~~ 90 days between the first visit and the last visit, and (ii) the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper. The circuit court may, for good cause shown, in cases of placement by a child-placing agency, omit the requirement that the three visits be made within a six-month period.

4. After receipt of the report, if the child has 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.

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 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 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 last visit has occurred within 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, *the adoption was not finalized pursuant to the laws of that foreign country*, and the child has 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~~ 90 days between the first and last visits. 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.

§ 63.2-1220. Issuance of birth certificates for children adopted in the Commonwealth.

A. For the purpose of securing a new birth certificate for an ~~adopted~~ *a child adopted pursuant to the laws of the Commonwealth*, the procedures set forth in § 32.1-262 shall be followed.

B. Adoptive parents who are residents of the Commonwealth may petition the circuit court in the city or county where they reside for a report of adoption when the adoptive parents are seeking a Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting requirements and with whom the United States has diplomatic relations. The adoptive parents shall provide the circuit court with evidence, such as an admission stamp in the child's passport, that the child was admitted to the United States with an immediate relative immigrant visa (IR-3), a report of adoption on a form furnished by the State Registrar of Vital Records, completed post-adoption reports, and a signed affidavit stating that any outstanding post-adoption requirements shall be met as required by the foreign country. The affidavit shall also include the name by which the child is to be known. The circuit court shall review all documents provided by the adoptive parents. If the circuit court finds that all requirements of this subsection have been met, the circuit court may issue the report of adoption to the State Registrar for issuance of a Virginia certificate of birth in accordance with § 32.1-262.

C. Except as provided in subsection B, adoptive parents seeking to have a child from a foreign country adopted or who choose to readopt a child from a foreign country in Virginia shall comply with all adoption requirements of this chapter in order to get a Virginia certificate of birth.