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**HOUSE BILL NO. 2421**

Offered January 18, 2011

*A BILL to amend and reenact §§ 16.1-241, 16.1-243, 63.2-1202, 63.2-1230, and 63.2-1250 of the Code of Virginia, relating to adoption procedures.*

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Patron—Toscano

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Referred to Committee on Health, Welfare and Institutions

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-241, 16.1-243, 63.2-1202, 63.2-1230, and 63.2-1250 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-241. Jurisdiction; consent for abortion.

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244; and

6. Who is charged with a traffic infraction as defined in § 46.2-100.

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 14 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,

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59 father or legal guardian but shall include petitions filed at any time by any party with a legitimate  
60 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not  
61 be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party  
62 with a legitimate interest shall not include any person (i) whose parental rights have been terminated by  
63 court order, either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a  
64 person whose parental rights have been terminated by court order, either voluntarily or involuntarily,  
65 including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family  
66 members, if the child subsequently has been legally adopted, except where a final order of adoption is  
67 entered pursuant to § 63.2-1241, or (iii) who has been convicted of a violation of subsection A of  
68 § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United  
69 States, or any foreign jurisdiction, when the child who is the subject of the petition was conceived as a  
70 result of such violation. The authority of the juvenile court to consider a petition involving the custody  
71 of a child shall not be proscribed or limited where the child has previously been awarded to the custody  
72 of a local board of social services.

73 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the  
74 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the involuntary admission of a person  
75 with mental illness or judicial certification of eligibility for admission to a training center for persons  
76 with mental retardation in accordance with the provisions of Chapters 1 (§ 37.2-100 et seq.) and 8  
77 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults  
78 shall be concurrent with the general district court.

79 C. Except as provided in subsections D and H hereof, judicial consent to such activities as may  
80 require parental consent may be given for a child who has been separated from his parents, guardian,  
81 legal custodian or other person standing in loco parentis and is in the custody of the court when such  
82 consent is required by law.

83 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married  
84 nor has ever been married, when the consent of his parent, guardian, legal custodian or other person  
85 standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person  
86 standing in loco parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown,  
87 (iii) cannot be consulted with promptness, reasonable under the circumstances, or (iv) fails to give such  
88 consent or provide such treatment when requested by the judge to do so.

89 E. Any person charged with deserting, abandoning or failing to provide support for any person in  
90 violation of law.

91 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

92 1. Who has been abused or neglected;

93 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817  
94 or is otherwise before the court pursuant to subdivision A 4 of this section; or

95 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court  
96 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the  
97 conduct of the child complained of in the petition.

98 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other  
99 person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services  
100 that are required by law to be provided for that child or such child's parent, guardian, legal custodian or  
101 other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not  
102 exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

103 H. Judicial consent to apply for a work permit for a child when such child is separated from his  
104 parents, legal guardian or other person standing in loco parentis.

105 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or  
106 neglect of children or with any violation of law that causes or tends to cause a child to come within the  
107 purview of this law, or with any other offense against the person of a child. In prosecution for felonies  
108 over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is  
109 probable cause.

110 J. All offenses in which one family or household member is charged with an offense in which  
111 another family or household member is the victim and all offenses under § 18.2-49.1.

112 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
113 determining whether or not there is probable cause. Any objection based on jurisdiction under this  
114 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial,  
115 before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it  
116 shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for  
117 challenging directly or collaterally the jurisdiction of the court in which the case is tried.

118 K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily  
119 relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such  
120 parental rights. No such petition shall be accepted, however, after the child has been placed in the home

of adoptive parents.

L. Any person who seeks spousal support after having separated from his spouse. A decision under this subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit court shall have concurrent original jurisdiction in all causes of action under this subdivision.

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or 16.1-279.1.

N. Any person who escapes or remains away without proper authority from a residential care facility in which he had been placed by the court or as a result of his commitment to the Virginia Department of Juvenile Justice.

O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic relations district court.

Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

T. Petitions to enforce any request for information or subpoena that is not complied with or to review any refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-1526.

U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

V. *Petitions to review an adoption home study pursuant to § 63.2-1231.*

W. *Petitions filed for a court to assist with the execution of another state's or jurisdiction's adoption consent or related document.*

XX. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a minor elects not to seek consent of an authorized person.

After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independent of the wishes of any authorized person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired abortion would be in her best interest.

If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion; however, no such notice shall be required if the judge finds that such notice would not be in the best interest of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he finds that (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) every other authorized person, if any, is either abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

The minor may participate in the court proceedings on her own behalf, and the court may appoint a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall, upon her request, appoint counsel for her.

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and records of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so that the court may reach a decision promptly and without delay in order to serve the best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no event later than four days after the petition is filed.

An expedited confidential appeal to the circuit court shall be available to any minor for whom the court denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard and decided no later than five days after the appeal is filed. The time periods required by this subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice shall not be subject to appeal.

No filing fees shall be required of the minor at trial or upon appeal.

If either the original court or the circuit court fails to act within the time periods required by this subsection, the court before which the proceeding is pending shall immediately authorize a physician to

182 perform the abortion without consent of or notice to an authorized person.

183 Nothing contained in this subsection shall be construed to authorize a physician to perform an  
184 abortion on a minor in circumstances or in a manner that would be unlawful if performed on an adult  
185 woman.

186 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent  
187 has been obtained or the minor delivers to the physician a court order entered pursuant to this section  
188 and the physician or his agent provides such notice as such order may require. However, neither consent  
189 nor judicial authorization nor notice shall be required if the minor declares that she is abused or  
190 neglected and the attending physician has reason to suspect that the minor may be an abused or  
191 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with  
192 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the  
193 facts justifying the exception in the minor's medical record.

194 For purposes of this subsection:

195 "Authorization" means the minor has delivered to the physician a notarized, written statement signed  
196 by an authorized person that the authorized person knows of the minor's intent to have an abortion and  
197 consents to such abortion being performed on the minor.

198 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or  
199 (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with  
200 whom the minor regularly and customarily resides and who has care and control of the minor. Any  
201 person who knows he is not an authorized person and who knowingly and willfully signs an  
202 authorization statement consenting to an abortion for a minor is guilty of a Class 3 misdemeanor.

203 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has  
204 received authorization from an authorized person, or (ii) at least one authorized person is present with  
205 the minor seeking the abortion and provides written authorization to the physician, which shall be  
206 witnessed by the physician or an agent thereof. In either case, the written authorization shall be  
207 incorporated into the minor's medical record and maintained as a part thereof.

208 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical  
209 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate  
210 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial  
211 and irreversible impairment of a major bodily function.

212 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual  
213 notice of his intention to perform such abortion to an authorized person, either in person or by  
214 telephone, at least 24 hours previous to the performance of the abortion; or (ii) the physician or his  
215 agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person  
216 by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at  
217 least 72 hours prior to the performance of the abortion.

218 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical  
219 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

220 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid  
221 marriage, even though the marriage may have been terminated by dissolution; (ii) active duty with any  
222 of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her  
223 parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an  
224 order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.) of this chapter.

225 ~~WY.~~ Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby  
226 guardians for minor children.

227 The ages specified in this law refer to the age of the child at the time of the acts complained of in  
228 the petition.

229 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of  
230 any process in a proceeding pursuant to subdivision 3 of subsection A, except as provided in subdivision  
231 A 6 of § 17.1-272, or subsection B, D, M or R of this section.

232 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of  
233 subsection ~~Y~~ X shall be guilty of a Class 3 misdemeanor.

234 § 16.1-243. Venue.

235 A. Original venue:

236 1. Cases involving children, other than support or where protective order issued: Proceedings with  
237 respect to children under this law, except support proceedings as provided in subdivision 2 of this  
238 subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

239 a. Delinquency: If delinquency is alleged, be commenced in the city or county where the acts  
240 constituting the alleged delinquency occurred or they may, with the written consent of the child and the  
241 attorney for the Commonwealth for both jurisdictions, be commenced in the city or county where the  
242 child resides;

243 b. Custody or visitation: In cases involving custody or visitation, be commenced in the court of the

city or county which, in order of priority, (i) is the home of the child at the time of the filing of the petition, or had been the home of the child within six months before the filing of the petition and the child is absent from the city or county because of his removal or retention by a person claiming his custody or for other reasons, and a parent or person acting as a parent continues to live in the city or county, (ii) has significant connection with the child and in which there is substantial evidence concerning the child's present or future care, protection, training and personal relationships, (iii) is where the child is physically present and the child has been abandoned or it is necessary in an emergency to protect the child because he has been subjected to or threatened with mistreatment or abuse or is otherwise neglected or dependent or (iv) it is in the best interest of the child for the court to assume jurisdiction as no other city or county is an appropriate venue under the preceding provisions of this subdivision;

c. Adoption: In parental placement adoption consent hearings pursuant to §§ 16.1-241, 63.2-1233 and 63.2-1237, be commenced ~~(i) in the any city or county where the child to be adopted was born, (ii) in the city or county where the birth parent(s) reside, or (iii) in the city or county where the prospective adoptive parent(s) reside; and~~

d. All other cases: In all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.

2. Support: Proceedings that involve child or spousal support or child and spousal support, exclusive of proceedings arising under Chapter 5 (§ 20-61 et seq.) of Title 20, shall be commenced in the city or county where either party resides or in the city or county where the respondent is present when the proceeding commences.

3. Family abuse: Proceedings in which an order of protection is sought as a result of family abuse shall be commenced where (i) either party has his or her principal residence (ii) the abuse occurred or (iii) a protective order was issued if at the time the proceeding is commenced the order is in effect to protect the petitioner or a family or household member of the petitioner.

#### B. Transfer of venue:

1. Generally: Except in custody, visitation and support cases, if the child resides in a city or county of the Commonwealth and the proceeding is commenced in a court of another city or county, that court may at any time, on its own motion or a motion of a party for good cause shown, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. However, such transfer may occur only after adjudication in delinquency proceedings.

2. Custody and visitation: In custody and visitation cases, if venue lies in one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of venue. In the consideration of the motion, the best interests of the child shall determine the most appropriate forum.

3. Support: In support proceedings, exclusive of proceedings arising under Chapter 5 of Title 20, if the respondent resides in a city or county in the Commonwealth and the proceeding is commenced in a court of another city or county, that court may, at any time on its own motion or a motion of a party for good cause shown or by agreement of the parties, transfer the proceeding to the city or county of the respondent's residence for such further action or proceedings as the court receiving the transfer may deem proper. For the purposes of determining venue of cases involving support, the respondent's residence shall include any city or county in which the respondent has resided within the last six months prior to the commencement of the proceeding or in which the respondent is residing at the time that the motion for transfer of venue is made. If venue is transferable to one of several cities or counties, the court in which the motion for transfer is made shall determine which such city or county is the most appropriate venue unless the parties mutually agree to the selection of such venue.

When the support proceeding is a companion case to a child custody or visitation proceeding, the provisions governing venue in the proceeding involving the child's custody or visitation shall govern.

4. Subsequent transfers: Any court receiving a transferred proceeding as provided in this section may in its discretion transfer such proceeding to a court in an appropriate venue for good cause shown based either upon changes in circumstances or mistakes of fact or upon agreement of the parties. In any transfer of venue in cases involving children, the best interests of the child shall be considered in deciding if and to which court a transfer of venue would be appropriate.

5. Enforcement of orders for support, maintenance and custody: Any juvenile and domestic relations district court to which a suit is transferred for enforcement of orders pertaining to support, maintenance, care or custody pursuant to § 20-79 (c) may transfer the case as provided in this section.

C. Records: Originals of all legal and social records pertaining to the case shall accompany the transfer of venue. Records imaged from the original documents shall be considered original documents for purposes of the transfer of venue. The transferor court may, in its discretion, retain copies as it deems appropriate.

§ 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 whose foreign placement will be finalized in the Commonwealth if the child received an immediate relative immigrant visa (IR-2, IR-3, IH-3, or IH-4) or other status indicating the approval by the United States Department of State and the United States Citizenship and Immigration Services for purposes of the child's emigration and 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 immediately prior to the filing of the petition for adoption or prior to any adoption-related proceeding in the juvenile and domestic relations district court where the birth parent has been notified of the Putative Father Registry or other adoption-related proceeding or has been contacted for the purpose of seeking his cooperation in a future adoption proceeding. 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 *immediately* 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, *or prospective adoptee*, executing a consent, entrustment, or other documents related to the adoption, cannot provide the identification required pursuant to § 47.1-14, the birth parent, *legal guardian, or prospective adoptee* may execute a self-authenticating affidavit as to his identity subject to the penalties contained in § 63.2-1217.

§ 63.2-1230. Placement of children by parent or guardian.

The birth parent, legal guardian, or adoptive parent of a child may place his child for adoption directly with the adoptive parents of his choice. *In all other cases where an adoption of a child is sought, except step-parent placements, relative placements pursuant to § 63.2-1242.3, and agency placements, the parental placement provisions of this chapter may be utilized.* Consent to the proposed adoption shall be executed upon compliance with the provisions of this chapter before a juvenile and domestic relations district court or, if the birth parent or legal guardian does not reside in Virginia, before a court having jurisdiction over child custody matters in the jurisdiction where the birth parent or legal guardian resides when requested by a juvenile and domestic relations district court of this Commonwealth, pursuant to § 20-146.11. *A petition seeking the assistance of court outside of the Commonwealth in taking a birth parent's consent may be filed and acted upon prior to the birth of the child.* Consent proceedings shall be advanced on the juvenile and domestic relations district court docket so as to be heard by the court within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

§ 63.2-1250. Registration; notice; form.

A. Except as otherwise provided in ~~subsection C~~ *this section*, 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, 20-49.8, or if the man is a presumed father as defined in § 63.2-1202; 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 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. In the event that the identity and whereabouts of the birth father are reasonably ascertainable, written notice of the existence of an adoption plan and the availability of registration with the Putative Father Registry shall be provided by certified mailing to the man's last known address. The man shall have no more than 10 days from the date of such mailing to register. The mailing may be done either prior to or after the birth of the child.

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

428 and state of issuance; (iii) the registrant's home address, telephone number and employer; (iv) name,  
429 date of birth, ethnicity, address and telephone number of the putative mother, if known; (v) state of  
430 conception; (vi) place and date of birth of the child, if known; and (vii) name and gender of the child, if  
431 known.

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