

12100043D

HOUSE BILL NO. 445

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact §§ 16.1-241, 16.1-243, 63.2-1202, 63.2-1203, 63.2-1208, 63.2-1222, 63.2-1223, 63.2-1225, 63.2-1234, 63.2-1241, 63.2-1250, and 63.2-1251 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 63.2-1220.01, and to repeal § 63.2-1242 of the Code of Virginia, relating to adoption of a child; procedures.*

Patron—Toscano

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 16.1-243, 63.2-1202, 63.2-1203, 63.2-1208, 63.2-1222, 63.2-1223, 63.2-1225, 63.2-1234, 63.2-1241, 63.2-1250, and 63.2-1251 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.2-1220.01 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

INTRODUCED

HB445

59 lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be
60 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

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

77 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
78 provisions of Article 16 (§ 16.1-335 et seq.) ~~of this chapter~~ and the involuntary admission of a person
79 with mental illness or judicial certification of eligibility for admission to a training center for persons
80 with mental retardation in accordance with the provisions of Chapters 1 (§ 37.2-100 et seq.) and 8
81 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults
82 shall be concurrent with the general district court.

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

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

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

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

96 1. Who has been abused or neglected;

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

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

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

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

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

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

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

challenging directly or collaterally the jurisdiction of the court in which the case is tried.

K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished pursuant to a court proceeding, to seek a reversal of the court order terminating such 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 a decision by the Commissioner of Social Services to grant or deny a variance from criteria for approval as an appropriate adoptive home pursuant to § 63.2-1225.*

W. *Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of that state provide for the execution of consent to an adoption in the court of the Commonwealth.*

X. 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

182 be heard and decided no later than five days after the appeal is filed. The time periods required by this
183 subsection shall be subject to subsection B of § 1-210. An order authorizing an abortion without consent
184 or without notice shall not be subject to appeal.

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

186 If either the original court or the circuit court fails to act within the time periods required by this
187 subsection, the court before which the proceeding is pending shall immediately authorize a physician to
188 perform the abortion without consent of or notice to an authorized person.

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

192 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent
193 has been obtained or the minor delivers to the physician a court order entered pursuant to this section
194 and the physician or his agent provides such notice as such order may require. However, neither consent
195 nor judicial authorization nor notice shall be required if the minor declares that she is abused or
196 neglected and the attending physician has reason to suspect that the minor may be an abused or
197 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with
198 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the
199 facts justifying the exception in the minor's medical record.

200 For purposes of this subsection:

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

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

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

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

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

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

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

231 ~~W-Y.~~ Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) of this chapter relating to standby
232 guardians for minor children.

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

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

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

240 § 16.1-243. Venue.

241 A. Original venue:

242 1. Cases involving children, other than support or where protective order issued: Proceedings with
243 respect to children under this law, except support proceedings as provided in subdivision 2 of this

subsection or family abuse proceedings as provided in subdivision 3 of this subsection, shall:

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

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 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 (i) filing of the petition for adoption or initiation of any other proceeding related to the adoption, (ii) receipt by the birth parent of notification

of the availability of the Putative Father Registry, or (iii) receipt by the birth parent of a written communication requesting the birth parent's consent to an adoption of the child. 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 (a) filing of the petition for adoption or initiation of any other proceeding related to the adoption, (b) receipt by the birth parent of notification of the availability of the Putative Father Registry, or (c) receipt by the birth parent of a written communication requesting the birth parent's consent to an adoption of the child. 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.

§ 63.2-1203. When consent is withheld or unobtainable.

A. If, after consideration of the evidence, the circuit court finds that the valid consent of any person or agency whose consent is required is withheld contrary to the best interests of the child as set forth in § 63.2-1205, or is unobtainable, the circuit court may grant the petition without such consent:

1. Fifteen days after personal service of notice of petition on the party or parties whose consent is required by this section;

2. Fifteen days after service of notice of the petition or any proceeding related to the petition for adoption by certified or registered mail on the party or parties whose consent is required by this section;

3. If personal service is unobtainable, ~~ten~~ 10 days after the completion of the execution of an order of publication against the party or parties whose consent is required by this section concerning the petition;

3.4. If a birth parent is deceased, upon the filing of a death certificate for a deceased birth parent with the court; or

4.5. If the judge certifies on the record that the identity of any person whose consent is ~~hereinabove~~ required is not reasonably ascertainable.

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 circuit 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. If the child is not in the custody of a child-placing agency and both parents are deceased, the circuit court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

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

B. Upon receiving a petition and order of reference from the circuit court, the applicable agency shall make a thorough investigation of the matter and report thereon in writing, in such form as the Commissioner may prescribe, to the circuit court within 60 days after the copy of the petition and all exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the circuit court. On the report to the circuit court there shall be appended either acceptance of service or

certificate of the local director, or the representative of the child-placing agency, that copies were served as this section requires, showing the date of delivery or mailing. The circuit court shall expeditiously consider the merits of the petition upon receipt of the report.

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

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

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

F. The report shall include a statement by the child-placing agency or local director that all reasonably ascertainable background, medical, and psychological records of the child have been provided to the prospective adoptive parent(s). The report also shall include a list of such records provided.

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

§ 63.2-1220.01. Foreign adoptions; establishment of date of birth.

A circuit court may, as part of a proceeding for the adoption of a child born in a foreign country or upon petition to amend a certificate of birth for a person born in a foreign country, correct or establish a date of birth for such person. In cases in which adoptive parents are unable to ascertain the date of birth of the child or in which medical evidence indicates that the stated date of birth of the child is incorrect, the court may establish a corrected date of birth based on medical evidence of the child's actual age and the State Registrar of Vital Records shall issue a certificate of birth pursuant to § 32.1-261 showing the date of birth established by the court.

§ 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 such birth father did not register with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter or the birth father named by the birth mother denies under oath and in writing the paternity of the child. An affidavit signed by the birth mother stating that the identity of the birth father is unknown may be filed with the court alleging that the identity of the birth father is not known or reasonably ascertainable. A birth father shall be given notice of the entrustment if he is an acknowledged father pursuant to § 20-49.1, an adjudicated father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a putative father who has registered with Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter. If the putative father's identity is reasonably ascertainable, he shall be given notice pursuant to the requirements of § 63.2-1250.

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. If he fails to object to the entrustment within 15

days of the mailing of such notice, his entrustment shall not be required. ~~Such~~ *An objection to an entrustment agreement 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.*

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 § 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 subsections C and 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 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 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. 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 10 days and (ii) seven days have elapsed from the date of execution of the agreement. In addition, a~~ *After seven days have elapsed from the date of execution of a valid entrustment agreement, the entrustment agreement shall be revocable by either of the birth parents upon written mutual consent of the birth parent and the child-placing agency or local board having custody of the child* if the child has not been placed in the physical custody of the prospective 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.

B. *If a birth parent who has revoked an entrustment agreement terminating all parental rights and responsibilities to the child subsequently executes a second entrustment agreement terminating all parental rights and responsibilities to the same child, the second entrustment agreement shall be irrevocable except upon proof of fraud or duress [or upon written mutual consent of the birth parent and the child-placing agency or local board having custody of the child].*

§ 63.2-1225. Determination of appropriate home.

551 A. Prior to placing a child for adoption, a licensed child-placing agency or local board shall
552 perform the required background check, health and safety evaluations and home study. If the agency or
553 local board determines that the prospective adoptive parent(s) meet the criteria for placement of the
554 child, the agency or local board shall approve the placement. If the prospective adoptive parent(s) fail
555 to meet one or more criteria for placement, the prospective adoptive parent(s) may request a variance.
556 Requests for variances shall be made in writing to the local department. If the local department
557 determines that granting the variance will not jeopardize the safety and proper care of the child or
558 violate federal or state law or local ordinances, the local department may grant the variance and
559 approve the placement. If the local department refuses to grant the requested variance, the prospective
560 adoptive parent(s) may request a review of the decision by the Commissioner. Appeals to the
561 Commissioner shall be made in writing within [#] days of receipt of notice of the denial by the local
562 department. The Commissioner shall review the case and determine if granting the variance would
563 jeopardize the safety and proper care of the child or violate federal or state law or local ordinances.
564 The Commissioner shall inform the prospective adoptive parent(s) and the local department of his
565 decision within [#] days of receipt of the request for review of the local department's decision. If the
566 Commissioner determines that granting the variance will not jeopardize the safety and proper care of
567 the child or violate federal or state law or local ordinances, the placement shall be approved. If the
568 Commissioner denies the variance, the prospective adoptive parent(s) may petition the juvenile and
569 domestic relations district court for the county or city in which the prospective adoptive parent(s) reside
570 or in which the local department maintains an office for review of the decision. If the court determines
571 that granting the variance will not jeopardize the safety and proper care of the child or violate federal
572 or state law or local ordinances, the court shall enter an order granting the variance and approving the
573 placement.

574 B. In determining the appropriate home in which to place a child for adoption, a married couple or
575 an unmarried individual shall be eligible to receive placement of a child for purposes of adoption. Prior
576 to or after the acceptance of custody of a child placed for adoption, a licensed child-placing agency or a
577 local board shall consider the recommendations of the birth parent(s), a physician or attorney licensed in
578 the Commonwealth, or a clergyman who is familiar with the situation of the prospective adoptive
579 parent(s) or the child. No birth parent, physician, attorney or clergyman shall advertise that he is
580 available to make recommendations, nor shall he charge any fee for such recommendations to a board or
581 agency, except that an attorney may charge for legal fees and services rendered in connection with such
582 placement.

583 B-C. The agency or local board may give consideration to placement of the child with the
584 recommended adoptive parent(s) if the agency or local board finds that such placement is in the best
585 interest of the child. When the birth parent(s) has recommended such placement, the agency or local
586 board shall provide the birth parent(s) the opportunity to be represented by independent legal counsel as
587 well as the opportunity for counseling with a social worker. The agency or board also shall advise the
588 prospective adoptive parent(s) of the right to be represented by independent legal counsel. The parties
589 may, but are not required to, exchange identifying information as provided for in subdivision A 3 of
590 § 63.2-1232.

591 § 63.2-1234. When consent is revocable.

592 A. Consent shall be revocable as follows:

593 1. By either consenting birth parent for any reason for up to seven days from its execution; however,
594 such seven-day revocation period may be waived in writing at the time of consent provided that the
595 child is at least 10 days old and the consenting birth parent acknowledges having received independent
596 legal counsel regarding the effect of such waiver. In the case of two consenting birth parents, the waiver
597 by one consenting birth parent shall not affect the right of the second consenting birth parent to retain
598 his seven-day revocation period.

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

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

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

B. If a birth parent who has revoked consent to the adoption of a child subsequently executes consent to the adoption of that child, the subsequently executed consent to adoption of the child shall be irrevocable except upon proof of fraud or duress [or upon written mutual consent of the birth parent and the prospective adoptive parent(s)].

§ 63.2-1241. Adoption of child by 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.

A. In cases in which the spouse of a birth parent or parent by adoption who is not the birth parent of a child wishes to adopt the child, the birth parent and his spouse may file a petition for adoption in the circuit court of the county or city where the birth parent and his spouse reside or the county or city where the child resides. The petition shall be the joint petition of the birth parent and his spouse but the birth parent shall unite in the petition for the purpose of indicating consent to the prayer thereof only. The petition shall also state whether the petitioners seek to change the name of the child.

B. The court may order the proposed adoption and change of name without referring the matter to the local director if (i) the birth parent or parent by adoption other than the birth parent or parent by adoption joining in the petition for adoption is deceased; (ii) the birth parent or parent by adoption other than the birth parent or parent by adoption joining in the petition for adoption consents to the adoption in writing; (iii) the acknowledged, adjudicated, presumed, or putative father denies paternity of the child; (iv) the birth mother swears under oath and in writing that the identity of the father is not reasonably ascertainable; (v) the putative father has not registered with the Putative Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) and, if his identity is reasonably ascertainable, has failed to timely register despite being furnished notice of the registry pursuant to § 63.2-1250; (vi) the child is the result of surrogacy and the birth parent other than the birth parent joining in the petition consents to the adoption in writing; or (vii) the parent by adoption joining in the petition was not married at the time the child was adopted. However, if the court in its discretion determines that there should be an investigation before a final order of adoption is entered, the court shall refer the matter to the local director for an investigation and report to be completed within such time as the circuit court designates. If an investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-1208 shall apply.

C. If an acknowledged, adjudicated, presumed, or putative birth parent or parent by adoption of a child refuses to consent to the adoption of a child by the spouse of the other birth parent or parent by adoption of the child, the court shall determine whether consent to the adoption is withheld contrary to the best interests of the child. If the court determines that consent to the adoption is withheld contrary to the best interests of the child, the court may order the adoption and change of name without referring the matter to the local director. However, if the court in its discretion determines that there should be an investigation before a final order of adoption is entered, the circuit court shall refer the matter to the local director for an investigation and report to be completed within such time as the circuit court designates. The order of reference may include a requirement that the local director investigate factors relevant to determining whether consent of a birth parent is withheld contrary to the best interests of the child, including factors set forth in § 63.2-1205. If an investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-1208 shall apply.

~~E.D.~~ 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.

§ 63.2-1250. Registration; notice; form.

A. Except as otherwise provided in ~~subsection C~~ *this chapter*, 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 *personal service or by* certified mailing to the man's last known address. The man shall have no more than 10 days from the date of such *personal service or certified* mailing to register. ~~The mailing~~ *Notice of the existence of an adoption plan and the availability of registration with the Putative Father Registry pursuant to this subsection* 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 and state of issuance; (iii) the registrant's home address, telephone number and employer; (iv) *the* name, date of birth, ethnicity, address and telephone number of the putative mother, if known; (v) *the* state of conception; (vi) *the* place and date of birth of the child, if known; ~~and~~ (vii) *the* name and gender of the child, if known; ~~and~~ (viii) *the signature of the registrant. No form for registering with the Putative Father Registry pursuant to this subsection shall be complete unless signed by the registrant.*

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)

736 procedures exist to rescind the registration of a claim of paternity.
737 § 63.2-1251. Furnishing information; confidentiality; penalty.
738 A. The Department is not required to locate the mother of a child who is the subject of a
739 registration, but the Department shall send a copy of the notice of registration to the mother if an
740 address is provided.
741 B. Information contained in the registry is confidential and may only be released on request to:
742 1. A court or a person designated by the court;
743 2. The mother of the child who is the subject of the registration;
744 3. An agency authorized by law to receive such information;
745 4. A licensed child-placing agency;
746 5. A support enforcement agency;
747 6. *The child's guardian ad litem*;
748 7. A party or the party's attorney of record in an adoption proceeding, *custody proceeding, paternity*
749 *proceeding*, or in a proceeding of termination of parental rights, regarding a child who is the subject of
750 the registration; and
751 7-8. A putative father registry in another state.
752 C. Information contained in the registry shall be exempt from disclosure under the Virginia Freedom
753 of Information Act (§ 2.2-3700 et seq.).
754 D. An individual who intentionally releases information from the registry to an individual or agency
755 not authorized to receive the information in this section is guilty of a Class 4 misdemeanor.
756 **2. That § 63.2-1242 of the Code of Virginia is repealed.**