

# VIRGINIA ACTS OF ASSEMBLY -- 2014 SESSION

## CHAPTER 127

*An Act to amend and reenact § 63.2-1246 of the Code of Virginia, relating to adoption; disclosure of identifying information.*

[H 407]

Approved March 5, 2014

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

**1. That § 63.2-1246 of the Code of Virginia is amended and reenacted as follows:**

**§ 63.2-1246. Disposition of reports; disclosure of information as to identity of birth family.**

Upon the entry of a final order of adoption or other final disposition of the matter, the clerk of the circuit court in which it was entered shall forthwith transmit to the Commissioner all reports made in connection with the case, and the Commissioner shall preserve such reports and all other collateral reports, information and recommendations in a separate file. Except as provided in subsections C, D and E of § 63.2-1247, nonidentifying information from such adoption file shall not be open to inspection, or be copied, by anyone other than the adopted person, if eighteen years of age or over, or licensed or authorized child-placing agencies providing services to the child or the adoptive parents, except upon the order of a circuit court entered upon good cause shown. However, if the adoptive parents, or either of them, is living, the adopted person shall not be permitted to inspect the home study of the adoptive parents unless the Commissioner first obtains written permission to do so from such adoptive parent or parents.

No identifying information from such adoption file shall be disclosed, open to inspection or made available to be copied except as provided in subsections A, B and E of § 63.2-1247 or upon application of the adopted person, if eighteen years of age or over, to the Commissioner, who shall designate the person or agency that made the investigation to attempt to locate and advise the birth family of the application. The designated person or agency shall report the results of the attempt to locate and advise the birth family to the Commissioner, including the relative effects that disclosure of the identifying information may have on the adopted person, the adoptive parents, and the birth family. The adopted person and the birth family may submit to the Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a person or agency to attempt to locate the birth family within thirty days of receipt of the application, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report, the adopted person may apply to the circuit court for an order to disclose such information. Such order shall be entered only upon good cause shown after notice to and opportunity for hearing by the applicant for such order and the person or agency that made the investigation. "Good cause" when used in this section shall mean a showing of a compelling and necessitous need for the identifying information.

An eligible adoptee who is a resident of Virginia may apply for the court order provided for herein to (i) the circuit court of the county or city where the adoptee resides or (ii) the circuit court of the county or city where the central office of the Department is located. An eligible adoptee who is not a resident of Virginia shall apply for such a court order to the circuit court of the county or city where the central office of the Department is located.

If the identity and whereabouts of the adoptive parents and the birth parents are known to the person or agency, the circuit court may require the person or agency to advise the adoptive parents and the birth parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the circuit court shall consider the relative effects of such action upon the adopted person, the adoptive parents and the birth parents. The adopted person and the birth family may submit to the circuit court, and the circuit court shall consider, written comments stating the anticipated effect that the disclosure of identifying information may have upon any party.

When consent of the birth parents is not obtainable, due to the death of the birth parents or mental incapacity of the birth parents, *the Commissioner shall, upon application of the adult adopted person and a showing of good cause, disclose the identifying information to the adult adopted person. If the Commissioner denies disclosure of the identifying information, the adult adopted person may apply to the circuit court for an order to disclose such information and the circuit court may release identifying information to the adult adopted person.* In making this decision, the circuit court shall consider the needs and concerns of the adopted person and the birth family if such information is available, the actions the agency took to locate the birth family, the information in the agency's report and the recommendation of the agency.

The Commissioner, person or agency may charge a reasonable fee to cover the costs of processing

requests for nonidentifying information.

Upon entry of a final order of adoption or other final disposition of a matter involving the placement of a child by a licensed child-placing agency or a local board or an investigation by the local director of a placement for adoption of a child, the agency or local board shall transmit to the Commissioner all reports and collateral information in connection with the case, which shall be preserved by the Commissioner in accordance with this section.