

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 63.2-1232 and 63.2-1237 of the Code of Virginia, relating to adoption; child in custody of prospective adoptive parent(s) for five years or more.*

[S 1268]

Approved

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

**1. That §§ 63.2-1232 and 63.2-1237 of the Code of Virginia are amended and reenacted as follows: § 63.2-1232. Requirements of a parental placement adoption; exception.**

A. The juvenile and domestic relations district court shall not accept consent until it determines that:

1. The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents' consent is informed and uncoerced.

2. A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption.

3. The birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses.

4. Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists.

5. There has been no violation of the provisions of § 63.2-1218 in connection with the placement; however, if it appears there has been such violation, the court shall not reject consent of the birth parent to the adoption for that reason alone but shall report the alleged violation as required by § 63.2-1219.

6. A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with regulations established by the Board and has provided to the court a report of such home study, which shall contain the agency's recommendation regarding the suitability of the placement. A married couple or an unmarried individual shall be eligible to receive placement of a child for adoption.

7. The birth parent(s) have been informed of their opportunity to be represented by legal counsel.

B. The juvenile and domestic relations district court shall not accept the consent if the requirements of subsection A have not been met. In such cases, it shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation in accordance with §§ 63.2-1208 and 63.2-1238. If the juvenile and domestic relations district court determines that any of the parties is financially unable to obtain the required services, it shall refer the matter to the local director.

C. In cases in which a birth parent who resides in the Commonwealth places his child for adoption with adoptive parents in another state and the laws of that receiving state govern the proceeding for adoption, the birth parent may elect to waive the execution of consent pursuant to § 63.2-1233 and instead execute consent to the adoption pursuant to the laws of the receiving state. Any waiver of consent made pursuant to this subsection shall be made under oath and in writing, and shall expressly state that the birth parent has received independent legal counsel from an attorney licensed in the Commonwealth of Virginia advising him of the laws of the Commonwealth, the laws of the receiving state pursuant to which he elects to consent to the adoption, and the effects of his waiver of consent pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state. Any waiver of consent and election to consent pursuant to the laws of a receiving state shall include the name, address, and telephone number of such legal counsel. Failure to comply with this section shall render a waiver of consent pursuant to § 63.2-1233 and election to consent pursuant to the laws of the receiving state as authorized by this subsection invalid.

D. When consent to a parental placement adoption is sought pursuant to this article and the prospective adoptive parent(s) have had continuous physical and legal custody of the child for five or more years, the juvenile and domestic relations district court may, in its discretion, accept consent without (i) a home study as required by subsection A of § 63.2-1231 and subdivision A 6 of this section and (ii) the meeting and counseling requirements, as they relate to the prospective adoptive parent(s),

57 listed in subsection A of § 63.2-1231 and subdivision A 2 of this section. All other provisions of the  
58 parental placement adoption statutes shall apply.

59 **§ 63.2-1237. Petition for parental placement adoption; jurisdiction; contents.**

60 Proceedings for the parental placement adoption of a minor child and for a change of name of such  
61 child shall be instituted only by petition to the circuit court in the county or city in which the petitioner  
62 resides or in the county or city where a birth parent has executed a consent pursuant to § 63.2-1233.  
63 Such petition may be filed by any natural person who resides in the Commonwealth or is the adopting  
64 parent(s) of a child who was subject to a consent proceeding held pursuant to § 63.2-1233. The petition  
65 shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it is so desired by the  
66 petitioner, also to change the name of such child. In the case of married persons, the petition shall be  
67 the joint petition of the husband and wife but, in the event the child to be adopted is legally the child  
68 by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose  
69 of indicating his or her consent to the prayer thereof only. The petition shall contain a full disclosure of  
70 the circumstances under which the child came to live, and is living, in the home of the petitioner. Each  
71 petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any  
72 case in which the petition seeks the entry of an adoption order without referral for investigation, the  
73 petition shall be under oath.

74 The petition shall state that the findings required by § 63.2-1232 have been made and shall be  
75 accompanied by appropriate documentation supporting such statement, to include copies of documents  
76 executing consent and transferring custody of the child to the prospective adoptive parents, and a copy  
77 of the report required by § 63.2-1231. The court shall not waive any of the requirements of this  
78 paragraph nor any of the requirements of § 63.2-1232 except as allowed pursuant to *subsection D of*  
79 *§ 63.2-1232 or* subdivision 4 of § 63.2-1233.

80 A single petition for adoption under the provisions of this section shall be sufficient for the  
81 concurrent adoption by the same petitioners of two or more children who have the same birth parent or  
82 parents; and nothing in this section shall be construed as having heretofore required a separate petition  
83 for each of such children.