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**HOUSE BILL NO. 2216**

Offered January 11, 2017

Prefiled January 11, 2017

A *BILL to amend and reenact §§ 16.1-277.01, 17.1-275, 20-88.35, 63.2-900, 63.2-1201, 63.2-1202, 63.2-1222, 63.2-1224, 63.2-1233, 63.2-1249, 63.2-1250, 63.2-1252, and 63.2-1253 of the Code of Virginia, relating to Putative Father Registry.*

Patrons—Toscano and Landes

Referred to Committee on Health, Welfare and Institutions

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

**1. That §§ 16.1-277.01, 17.1-275, 20-88.35, 63.2-900, 63.2-1201, 63.2-1202, 63.2-1222, 63.2-1224, 63.2-1233, 63.2-1249, 63.2-1250, 63.2-1252, and 63.2-1253 of the Code of Virginia are amended and reenacted as follows:**

**§ 16.1-277.01. Approval of entrustment agreement.**

A. In any case in which a child has been entrusted pursuant to § 63.2-903 or 63.2-1817 to the local board of social services or to a child welfare agency, a petition for approval of the entrustment agreement by the board or agency:

1. Shall be filed within a reasonable period of time, no later than 89 days after the execution of an entrustment agreement for less than 90 days, if the child is not returned to the caretaker from whom he was entrusted within that period;

2. Shall be filed within a reasonable period of time, not to exceed 30 days after the execution of an entrustment agreement for 90 days or longer or for an unspecified period of time, if such entrustment agreement does not provide for the termination of all parental rights and responsibilities with respect to the child; and

3. May be filed in the case of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child.

The board or agency shall file a foster care plan pursuant to § 16.1-281 to be heard with any petition for approval of an entrustment agreement.

B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within 45 days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3, except where an order of publication has been ordered by the court, in which case the hearing shall be held within 75 days of the filing of the petition. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The local board of social services or child welfare agency;

2. The child, if he is 12 years of age or older;

3. The guardian ad litem for the child; and

4. The child's parents, guardian, legal custodian or other person standing in loco parentis to the child.

No such notification shall be required, however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. A birth father shall be given notice of the proceedings if he is an acknowledged father pursuant to § 20-49.1, adjudicated pursuant to § 20-49.8, or presumed pursuant to § 63.2-1202, or has registered with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.). An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. Failure to register with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 of Title 63.2 shall be evidence that the identity of the father is not reasonably ascertainable. The hearing shall be held and an order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, when a petition seeks approval of a permanent entrustment agreement which provides for the termination of all parental rights and responsibilities with respect to the child, a summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264. The remaining

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59 parent's parental rights may be terminated even though that parent has not entered into an entrustment  
60 agreement if the court finds, based upon clear and convincing evidence, that it is in the best interest of  
61 the child and that (i) the identity of the parent is not reasonably ascertainable; (ii) the identity and  
62 whereabouts of the parent are known or reasonably ascertainable, and the parent is personally served  
63 with notice of the termination proceeding pursuant to § 8.01-296 or 8.01-320; (iii) the whereabouts of  
64 the parent are not reasonably ascertainable and the parent is given notice of the termination proceedings  
65 by certified or registered mail to the last known address and such parent fails to object to the  
66 proceedings within 15 days of the mailing of such notice; or (iv) the whereabouts of the parent are not  
67 reasonably ascertainable and the parent is given notice of the termination proceedings through an order  
68 of publication pursuant to §§ 8.01-316 and 8.01-317, and such parent fails to object to the proceedings.

69 C. At the hearing held pursuant to this section, the court shall hear evidence on the petition filed and  
70 shall review the foster care plan for the child filed by the local board or child welfare agency in  
71 accordance with § 16.1-281.

72 D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance of  
73 the evidence, whether approval of the entrustment agreement is in the best interest of the child.  
74 However, if the petition seeks approval of a permanent entrustment agreement which provides for the  
75 termination of all parental rights and responsibilities with respect to the child, the court shall make a  
76 finding, based upon clear and convincing evidence, whether termination of parental rights is in the best  
77 interest of the child. If the court makes either of these findings, the court may make any of the orders of  
78 disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any  
79 such order transferring legal custody of the child shall be made in accordance with the provisions of  
80 subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1. This order shall  
81 include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to  
82 granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that  
83 continued placement in the home would be contrary to the welfare of the child, if the order transfers  
84 legal custody of the child to a local board of social services. At any time subsequent to the transfer of  
85 legal custody of the child pursuant to this section, a birth parent or parents of the child and the  
86 pre-adoptive parent or parents may enter into a written post-adoption contact and communication  
87 agreement in accordance with the provisions of § 16.1-283.1 and Article 1.1 (§ 63.2-1220.2 et seq.) of  
88 Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication  
89 agreement as a precondition to entry of an order in any case involving the child.

90 The effect of the court's order approving a permanent entrustment agreement is to terminate an  
91 entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied  
92 by an order (i) continuing or granting custody to a local board of social services or to a licensed  
93 child-placing agency or (ii) granting custody or guardianship to a relative or other interested individual.  
94 Such an order continuing or granting custody to a local board of social services or to a licensed  
95 child-placing agency shall indicate whether that board or agency shall have the authority to place the  
96 child for adoption and consent thereto. A final order terminating parental rights pursuant to this section  
97 renders the approved entrustment agreement irrevocable. Such order may be appealed in accordance with  
98 the provisions of § 16.1-296.

99 D1. Any order transferring custody of the child to a relative or other interested individual pursuant to  
100 subsection D shall be entered only upon a finding, based upon a preponderance of the evidence, that the  
101 relative or other interested individual is one who (i) after an investigation as directed by the court, is  
102 found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a  
103 positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable  
104 home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect;  
105 and the order shall so state. The court's order transferring custody to a relative or other interested  
106 individual should further provide for, as appropriate, any terms and conditions which would promote the  
107 child's interest and welfare; ongoing provision of social services to the child and the child's custodian;  
108 and court review of the child's placement.

109 E. The local board or licensed child-placing agency to which authority is given to place the child for  
110 adoption and consent thereto after an order terminating parental rights is entered pursuant to this section  
111 shall file a written Adoption Progress Report with the juvenile court on the progress being made to  
112 place the child in an adoptive home. The report shall be filed with the court every six months from the  
113 date of the final order terminating parental rights until a final order of adoption is entered on behalf of  
114 the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is  
115 ordered and authority is given to the local board or licensed child-placing agency to place the child for  
116 adoption, the juvenile court shall schedule a date by which the board or agency shall file the first  
117 Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be  
118 sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report  
119 with or without the request of a party.

120 **§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

121 A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the  
122 following fees:

123 1. [Repealed.]

124 2. For recording and indexing in the proper book any writing and all matters therewith, or for  
125 recording and indexing anything not otherwise provided for, \$16 for an instrument or document  
126 consisting of 10 or fewer pages or sheets; \$30 for an instrument or document consisting of 11 to 30  
127 pages or sheets; and \$50 for an instrument or document consisting of 31 or more pages or sheets.  
128 Whenever any writing to be recorded includes plat or map sheets no larger than eight and one-half  
129 inches by 14 inches, such plat or map sheets shall be counted as ordinary pages for the purpose of  
130 computing the recording fee due pursuant to this section. A fee of \$15 per page or sheet shall be  
131 charged with respect to plat or map sheets larger than eight and one-half inches by 14 inches. Only a  
132 single fee as authorized by this subdivision shall be charged for recording a certificate of satisfaction  
133 that releases the original deed of trust and any corrected or revised deeds of trust. One dollar and fifty  
134 cents of the fee collected for recording and indexing shall be designated for use in preserving the  
135 permanent records of the circuit courts. The sum collected for this purpose shall be administered by The  
136 Library of Virginia in cooperation with the circuit court clerks.

137 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other  
138 fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding  
139 \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall  
140 be charged for estates of \$5,000 or less.

141 4. For entering and granting and for issuing any license, other than a marriage license or a hunting  
142 and fishing license, and administering an oath when necessary, \$10.

143 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary oaths  
144 or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage  
145 pursuant to § 20-25, \$25 to be paid by the petitioner.

146 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering all  
147 necessary oaths and writing proper affidavits, \$3.

148 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's fee  
149 shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

150 8. For making out a copy of any paper, record, or electronic record to go out of the office, which is  
151 not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,  
152 each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies  
153 and pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out  
154 the copies shall be deposited with the county or city treasurer or Director of Finance, and the governing  
155 body shall budget and appropriate such funds to be used to support the cost of copies pursuant to this  
156 subdivision. For purposes of this section, the costs of making out the copies authorized under this  
157 section shall include costs included in the lease and maintenance agreements for the equipment and the  
158 technology needed to operate electronic systems in the clerk's office used to make out the copies, but  
159 shall not include salaries or related benefits. The costs of copies shall otherwise be determined in  
160 accordance with § 2.2-3704. However, there shall be no charge to the recipient of a final order or decree  
161 to send an attested copy to such party.

162 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying  
163 it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do  
164 so, the clerk shall charge an additional \$0.50.

165 10. In any case in which a person is convicted of a violation of any provision of Article 1  
166 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk  
167 shall assess a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which  
168 shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
169 Treatment Fund.

170 11. In any case in which a person is convicted of a violation of any provision of Article 1  
171 (§ 18.2-247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk  
172 shall assess a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251,  
173 which shall be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and  
174 Treatment Fund as provided in § 17.1-275.8.

175 12. Upon the defendant's being required to successfully complete traffic school, a mature driver  
176 motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the  
177 court shall charge the defendant fees and costs as if he had been convicted.

178 13. In all civil actions that include one or more claims for the award of monetary damages the clerk's  
179 fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200 in  
180 cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery  
181 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding

182 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established  
183 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation  
184 case, in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in  
185 any pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of  
186 a counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be  
187 collected upon the filing of papers for the commencement of civil actions. This subdivision shall not be  
188 applicable to cases filed in the Supreme Court of Virginia.

189 13a. For the filing of any petition seeking court approval of a settlement where no action has yet  
190 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the  
191 time of filing the petition.

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

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

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

202 17. For docketing and indexing a judgment from any other court of the Commonwealth, for  
203 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of  
204 § 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment  
205 pursuant to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper  
206 to do so, a fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee  
207 of \$20.

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

212 19, 20. [Repealed.]

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

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

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

217 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,  
218 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to  
219 a divorce.

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

221 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include one  
222 or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be  
223 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to  
224 be paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly  
225 certified copy of the final decree. The fees prescribed by this subdivision shall be charged upon the  
226 filing of a counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged  
227 for (i) the filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any  
228 other responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce  
229 cases, when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a  
230 vinculo, the above mentioned fee shall include the furnishing of a duly certified copy of both such  
231 decrees.

232 27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees,  
233 including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the  
234 person presenting such credit or debit card a reasonable convenience fee for the processing of such  
235 credit or debit card. Such convenience fee shall not exceed four percent of the amount paid for the  
236 transaction or a flat fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic  
237 filing of civil or criminal proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to  
238 prohibit the clerk from outsourcing the processing of credit and debit card transactions to a third-party  
239 private vendor engaged by the clerk. Convenience fees shall be used to cover operational expenses as  
240 defined in § 17.1-295.

241 28. For the return of any check unpaid by the financial institution on which it was drawn or notice is  
242 received from the credit or debit card issuer that payment will not be made for any reason, the clerk  
243 may collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

244 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,  
 245 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee  
 246 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption  
 247 filed pursuant to § 63.2-1201, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, an  
 248 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the ~~Putative~~ *Virginia Birth*  
 249 *Father Registry Fund* pursuant to § 63.2-1249.

250 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the  
 251 same amount as the fee for the original license.

252 31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of \$5  
 253 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in §  
 254 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as  
 255 for recording a deed as provided for in this section, to be paid by the party upon whose request such  
 256 certificate is recorded or order is entered.

257 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme  
 258 Court, including all papers necessary to be copied and other services rendered, except in cases in which  
 259 costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8,  
 260 or 17.1-275.9, a fee of \$20.

261 33. [Repealed.]

262 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55-142.1 et seq.), the fees  
 263 shall be as prescribed in that Act.

264 35. For filing the appointment of a resident agent for a nonresident property owner in accordance  
 265 with § 55-218.1, a fee of \$10.

266 36. [Repealed.]

267 37. For recordation of certificate and registration of names of nonresident owners in accordance with  
 268 § 59.1-74, a fee of \$10.

269 38. For maintaining the information required under the Overhead High Voltage Line Safety Act  
 270 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

271 39. For lodging, indexing and preserving a will in accordance with § 64.2-409, a fee of \$2.

272 40. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed  
 273 under § 8.9A-525.

274 41. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed  
 275 under § 8.9A-525.

276 42. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as  
 277 prescribed under § 8.9A-525.

278 43. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

279 44. For issuing any execution, and recording the return thereof, a fee of \$1.50.

280 45. For the preparation and issuance of a summons for interrogation by an execution creditor, a fee  
 281 of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed an  
 282 additional fee of \$1.50, in accordance with subdivision A 44.

283 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
 284 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction,  
 285 renovation or maintenance.

286 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
 287 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the  
 288 poor, without charge, by a nonprofit legal aid program.

289 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16, A  
 290 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

291 E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk  
 292 into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

293 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the  
 294 services above described.

295 **§ 20-88.35. Bases for jurisdiction over nonresident.**

296 In a proceeding to establish or enforce a support order or to determine parentage of a child, a  
 297 tribunal of the Commonwealth may exercise personal jurisdiction over a nonresident individual or the  
 298 individual's guardian or conservator if:

299 1. The individual is personally served with process within the Commonwealth;

300 2. The individual submits to the jurisdiction of the Commonwealth by consent, by entering a general  
 301 appearance, or by filing a responsive document having the effect of waiving any contest to personal  
 302 jurisdiction;

303 3. The individual resided with the child in the Commonwealth;

304 4. The individual resided in the Commonwealth and paid prenatal expenses or provided support for

305 the child;

306 5. The child resides in the Commonwealth as a result of the acts or directives of the individual;

307 6. The individual engaged in sexual intercourse in the Commonwealth and the child may have been  
308 conceived by the act of intercourse;

309 7. The individual asserted parentage of a child in the ~~putative father registry~~ *Virginia Birth Father*  
310 *Registry* maintained in the Commonwealth by the Department of Social Services;

311 8. The exercise of personal jurisdiction is authorized under subdivision A 8 of § 8.01-328.1; or

312 9. There is any other basis consistent with the constitutions of the Commonwealth and the United  
313 States for the exercise of personal jurisdiction.

314 The bases of personal jurisdiction set forth in this section or any other law of the Commonwealth  
315 may not be used to acquire personal jurisdiction for a tribunal of the Commonwealth to modify a child  
316 support order issued by a tribunal of another state unless the requirements of § 20-88.76 or 20-88.77:3  
317 are met.

318 **§ 63.2-900. Accepting children for placement in homes, facilities, etc., by local boards.**

319 A. Pursuant to § 63.2-319, a local board shall have the right to accept for placement in suitable  
320 family homes, children's residential facilities or independent living arrangements, subject to the  
321 supervision of the Commissioner and in accordance with regulations adopted by the Board, such persons  
322 under 18 years of age as may be entrusted to it by the parent, parents or guardian, committed by any  
323 court of competent jurisdiction, or placed through an agreement between it and the parent, parents or  
324 guardians where legal custody remains with the parent, parents, or guardians.

325 The Board shall adopt regulations for the provision of foster care services by local boards, which  
326 shall be directed toward the prevention of unnecessary foster care placements and towards the immediate  
327 care of and permanent planning for children in the custody of or placed by local boards and that shall  
328 achieve, as quickly as practicable, permanent placements for such children. The local board shall first  
329 seek out kinship care options to keep children out of foster care and as a placement option for those  
330 children in foster care, if it is in the child's best interests, pursuant to § 63.2-900.1. In cases in which a  
331 child cannot be returned to his prior family or placed for adoption and kinship care is not currently in  
332 the best interests of the child, the local board shall consider the placement and services that afford the  
333 best alternative for protecting the child's welfare. Placements may include but are not limited to family  
334 foster care, treatment foster care and residential care. Services may include but are not limited to  
335 assessment and stabilization, diligent family search, intensive in-home, intensive wraparound, respite,  
336 mentoring, family mentoring, adoption support, supported adoption, crisis stabilization or other  
337 community-based services. The Board shall also approve in foster care policy the language of the  
338 agreement required in § 63.2-902. The agreement shall include at a minimum a Code of Ethics and  
339 mutual responsibilities for all parties to the agreement.

340 Within 30 days of accepting for foster care placement a person under 18 years of age whose father is  
341 unknown, the local board shall request a search of the ~~Putative~~ *Virginia Birth Father* Registry  
342 established pursuant to Article 7 (§ 63.2-1249 et seq.) of Chapter 12 to determine whether any man has  
343 registered as the putative father of the child. If the search results indicate that a man has registered as  
344 the putative father of the child, the local board shall contact the man to begin the process to determine  
345 paternity.

346 The local board shall, in accordance with the regulations adopted by the Board and in accordance  
347 with the entrustment agreement or other order by which such person is entrusted or committed to its  
348 care, have custody and control of the person so entrusted or committed to it until he is lawfully  
349 discharged, has been adopted or has attained his majority.

350 Whenever a local board places a child where legal custody remains with the parent, parents or  
351 guardians, the board shall enter into an agreement with the parent, parents or guardians. The agreement  
352 shall specify the responsibilities of each for the care and control of the child.

353 The local board shall have authority to place for adoption, and to consent to the adoption of, any  
354 child properly committed or entrusted to its care when the order of commitment or entrustment  
355 agreement between the parent or parents and the agency provides for the termination of all parental  
356 rights and responsibilities with respect to the child for the purpose of placing and consenting to the  
357 adoption of the child.

358 The local board shall also have the right to accept temporary custody of any person under 18 years  
359 of age taken into custody pursuant to subdivision B of § 16.1-246 or § 63.2-1517. The placement of a  
360 child in a foster home, whether within or without the Commonwealth, shall not be for the purpose of  
361 adoption unless the placement agreement between the foster parents and the local board specifically so  
362 stipulates.

363 B. Prior to the approval of any family for placement of a child, a home study shall be completed and  
364 the prospective foster or adoptive parents shall be informed that information about shaken baby  
365 syndrome, its effects, and resources for help and support for caretakers is available on a website  
366 maintained by the Department as prescribed in regulations adopted by the Board.

367 C. Prior to placing any such child in any foster home or children's residential facility, the local board  
 368 shall enter into a written agreement with the foster parents, pursuant to § 63.2-902, or other appropriate  
 369 custodian setting forth therein the conditions under which the child is so placed pursuant to § 63.2-902.  
 370 However, if a child is placed in a children's residential facility licensed as a temporary emergency  
 371 shelter, and a verbal agreement for placement is secured within eight hours of the child's arrival at the  
 372 facility, the written agreement does not need to be entered into prior to placement, but shall be  
 373 completed and signed by the local board and the facility representative within 24 hours of the child's  
 374 arrival or by the end of the next business day after the child's arrival.

375 D. Within 72 hours of placing a child of school age in a foster care placement, as defined in  
 376 § 63.2-100, the local social services agency making such placement shall, in writing, (i) notify the  
 377 principal of the school in which the student is to be enrolled and the superintendent of the relevant  
 378 school division or his designee of such placement, and (ii) inform the principal of the status of the  
 379 parental rights.

380 If the documents required for enrollment of the foster child pursuant to § 22.1-3.1, 22.1-270 or  
 381 22.1-271.2, are not immediately available upon taking the child into custody, the placing social services  
 382 agency shall obtain and produce or otherwise ensure compliance with such requirements for the foster  
 383 child within 30 days after the child's enrollment.

384 **§ 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.**

385 Proceedings for the adoption of a minor child and for a change of name of such child shall be  
 386 instituted only by petition to a circuit court in the county or city in which the petitioner resides, in the  
 387 county or city in which the child-placing agency that placed the child is located, or in the county or city  
 388 in which a birth parent executed a consent pursuant to § 63.2-1233. Such petition may be filed by any  
 389 natural person who resides in the Commonwealth, or who has custody of a child placed by a  
 390 child-placing agency of the Commonwealth, or by an adopting parent of a child who was subject to a  
 391 consent proceeding held pursuant to § 63.2-1233, or by intended parents who are parties to a surrogacy  
 392 contract. The petition shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it  
 393 is so desired by the petitioner, also to change the name of such child. In the case of married persons, or  
 394 persons who were previously married who are permitted to adopt a child under § 63.2-1201.1, the  
 395 petition shall be the joint petition of the husband and wife or former spouses but, in the event the child  
 396 to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall  
 397 unite in the petition for the purpose of indicating consent to the prayer thereof only. If any procedural  
 398 provision of this chapter applies to only one of the adoptive parents, then the court may waive the  
 399 application of the procedural provision for the spouse of the adoptive parent to whom the provision  
 400 applies. The petition shall contain a full disclosure of the circumstances under which the child came to  
 401 live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the  
 402 petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an  
 403 adoption order without referral for investigation, the petition shall be under oath.

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

408 The petition for adoption, except those filed pursuant to subdivisions 5 and 6 of § 63.2-1210, shall  
 409 include an additional \$50 filing fee that shall be used to fund the ~~Putative~~ *Virginia Birth* Father Registry  
 410 established in Article 7 (§ 63.2-1249 et seq.) of this chapter.

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

417 **§ 63.2-1202. Parental, or agency, consent required; exceptions.**

418 A. No petition for adoption shall be granted, except as hereinafter provided in this section, unless  
 419 written consent to the proposed adoption is filed with the petition. Such consent shall be in writing,  
 420 signed under oath and acknowledged before an officer authorized by law to take acknowledgments. The  
 421 consent of a birth parent for the adoption of his child placed directly by the birth parent shall be  
 422 executed as provided in § 63.2-1233, and the circuit court may accept a certified copy of an order  
 423 entered pursuant to § 63.2-1233 in satisfaction of all requirements of this section, provided the order  
 424 clearly evidences compliance with the applicable notice and consent requirements of § 63.2-1233.

425 B. A birth parent who has not reached the age of 18 shall have legal capacity to give consent to  
 426 adoption and perform all acts related to adoption, and shall be as fully bound thereby as if the birth  
 427 parent had attained the age of 18 years.

428 C. Consent shall be executed:

429 1. By the birth mother and by any man who:

430 a. Is an acknowledged father under § 20-49.1;

431 b. Is an adjudicated father under § 20-49.8;

432 c. Is a presumed father under subsection D; or

433 d. Has registered with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249  
434 et seq.).

435 Verification of compliance with the notice provisions of the ~~Putative~~ *Virginia Birth* Father Registry  
436 shall be provided to the court.

437 2. By the child-placing agency or the local board having custody of the child, with right to place him  
438 for adoption, through court commitment or parental agreement as provided in § 63.2-900, 63.2-903, or  
439 63.2-1221; or an agency outside the Commonwealth that is licensed or otherwise duly authorized to  
440 place children for adoption by virtue of the laws under which it operates; and

441 3. By the child if he is 14 years of age or older, unless the circuit court finds that the best interests  
442 of the child will be served by not requiring such consent.

443 D. A man shall be presumed to be the father of a child if:

444 1. He and the mother of the child are married to each other and the child is born during the  
445 marriage;

446 2. He and the mother of the child were married to each other and the child is born within 300 days  
447 of their date of separation, as evidenced by a written agreement or decree of separation, or within 300  
448 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce; or

449 3. Before the birth of the child, he and the mother of the child married each other in apparent  
450 compliance with the law, even if the attempted marriage is or could be declared invalid, and the child is  
451 born during the invalid marriage or within 300 days of their date of separation, as evidenced by a  
452 written agreement or decree of separation, or within 300 days after its termination by death, annulment,  
453 declaration of invalidity, or divorce.

454 Such presumption may be rebutted by sufficient evidence that would establish by a preponderance of  
455 the evidence the paternity of another man or the impossibility or improbability of cohabitation with the  
456 birth mother for a period of at least 300 days prior to the birth of the child.

457 E. No consent shall be required of a birth father if he denies under oath and in writing the paternity  
458 of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once  
459 the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights  
460 with respect to the adoption of the child and cannot be withdrawn.

461 F. No consent shall be required of the birth father of a child when the birth father is convicted of a  
462 violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense  
463 of another state, the United States, or any foreign jurisdiction, and the child was conceived as a result of  
464 such violation.

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

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

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

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

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

488 **§ 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and**  
489 **objection to entrustment; copy required to be furnished; requirement for agencies outside the**



490 **Commonwealth.**

491 A. For the purposes of this section, a birth parent who is less than 18 years of age shall be deemed  
492 fully competent and shall have legal capacity to execute a valid entrustment agreement, including an  
493 agreement that provides for the termination of all parental rights and responsibilities, and perform all  
494 acts related to adoption and shall be as fully bound thereby as if such birth parent had attained the age  
495 of 18 years.

496 B. An entrustment agreement for the termination of all parental rights and responsibilities with  
497 respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born  
498 out of wedlock if the identity of the birth father is not reasonably ascertainable or such birth father did  
499 not register with the ~~Putative~~ *Virginia Birth* Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.)  
500 or the birth father named by the birth mother denies under oath and in writing the paternity of the child.  
501 An affidavit signed by the birth mother stating that the identity of the birth father is unknown may be  
502 filed with the court alleging that the identity of the birth father is not known or reasonably ascertainable.  
503 A birth father shall be given notice of the entrustment if he is an acknowledged father pursuant to  
504 § 20-49.1, an adjudicated father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a  
505 putative father who has registered with ~~Putative~~ *the Virginia Birth* Father Registry pursuant to Article 7  
506 (§ 63.2-1249 et seq.). If the putative father's identity is reasonably ascertainable, he shall be given notice  
507 pursuant to the requirements of § 63.2-1250.

508 C. When a birth father is required to be given notice, he may be given notice of the entrustment by  
509 registered or certified mail to his last known address. If he fails to object to the entrustment within 15  
510 days of the mailing of such notice, his entrustment shall not be required. An objection to an entrustment  
511 agreement shall be in writing, signed by the objecting party or counsel of record for the objecting party  
512 and filed with the agency that mailed the notice of entrustment within the time period specified in  
513 § 63.2-1223.

514 D. The execution of an entrustment agreement shall be required of a presumed father except under  
515 the following circumstances: (i) if he denies paternity under oath and in writing in accordance with  
516 § 63.2-1202; (ii) if the presumption is rebutted by sufficient evidence, satisfactory to the circuit court,  
517 which would establish by a preponderance of the evidence the paternity of another man or the  
518 impossibility or improbability of cohabitation of the birth mother and her husband for a period of at  
519 least 300 days preceding the birth of the child; (iii) if another man admits, in writing and under oath,  
520 that he is the biological father; or (iv) if an adoptive placement has been determined to be in the best  
521 interests of the child pursuant to § 63.2-1205.

522 E. When none of the provisions of subsections C and D apply, notice of the entrustment shall be  
523 given to the presumed father pursuant to the requirements of § 16.1-277.01.

524 F. An entrustment agreement for the termination of all parental rights and responsibilities with  
525 respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child  
526 when the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63,  
527 subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign  
528 jurisdiction, and the child was conceived as a result of such violation.

529 G. A birth father may execute an entrustment agreement for the termination of all of his parental  
530 rights prior to the birth of the child. Such entrustment shall be subject to the revocation provisions of  
531 § 63.2-1223.

532 H. No entrustment shall be required of a birth father if he denies under oath and in writing the  
533 paternity of the child. Such denial of paternity may be withdrawn no more than 10 days after it is  
534 executed. Once the child is 10 days old, any executed denial of paternity is final and constitutes a  
535 waiver of all rights with respect to the adoption of the child and cannot be withdrawn.

536 I. A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

537 J. When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly  
538 authorized to place children for adoption by virtue of the laws under which it operates executes an  
539 entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights  
540 and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall  
541 apply. The birth parent may expressly waive, under oath and in writing, the execution of the entrustment  
542 under the requirements of §§ 63.2-1221 through 63.2-1224 in favor of the execution of an entrustment  
543 or relinquishment under the laws of another state if the birth parent is represented by independent legal  
544 counsel. Such written waiver shall expressly state that the birth parent has received independent legal  
545 counsel advising of the laws of Virginia and of the other state and that Virginia law is expressly being  
546 waived. The waiver also shall include the name, address, and telephone number of such legal counsel.  
547 Any entrustment agreement that fails to comply with such requirements shall be void.

548 **§ 63.2-1224. Explanation of process, legal effects of adoption required.**

549 Prior to the placement of a child for adoption, the licensed child-placing agency or local board  
550 having custody of the child shall provide an explanation of the adoption process to the birth mother and,

551 if reasonably available, the man who is an acknowledged father pursuant to § 20-49.1, an adjudicated  
552 father pursuant to § 20-49.8, a presumed father pursuant to § 63.2-1202, or a putative father who has  
553 registered with the Putative Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of  
554 this chapter.

555 **§ 63.2-1233. Consent to be executed in juvenile and domestic relations district court; exceptions.**

556 When the juvenile and domestic relations district court is satisfied that all requirements of  
557 § 63.2-1232 have been met with respect to at least one birth parent and the adoptive child is at least in  
558 the third calendar day of life, that birth parent or both birth parents, as the case may be, shall execute  
559 consent to the proposed adoption in compliance with the provisions of § 63.2-1202 while before the  
560 juvenile and domestic relations district court in person and in the presence of the prospective adoptive  
561 parents. The juvenile and domestic relations district court shall accept the consent of the birth parent(s)  
562 and transfer custody of the child to the prospective adoptive parents, pending notification to any  
563 nonconsenting birth parent, as described hereinafter.

564 1. a. The execution of consent before the juvenile and domestic relations district court shall not be  
565 required of a birth father if the birth father consents under oath and in writing to the adoption.

566 b. The consent of a birth father who is not married to the mother of the child at the time of the  
567 child's conception or birth shall not be required if the putative father named by the birth mother denies  
568 under oath and in writing the paternity of the child or if the putative father did not register with the  
569 Putative Virginia Birth Father Registry pursuant to Article 7 (§ 63.2-1249 et seq.) of this chapter. If the  
570 identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not  
571 reasonably ascertainable, verification of compliance with the Putative Virginia Birth Father Registry shall  
572 be provided to the court.

573 c. When a birth father is required to be given notice, he may be given notice of the adoption by  
574 registered or certified mail to his last known address and if he fails to object to the adoption within 15  
575 days of the mailing of such notice, his consent shall not be required. An objection shall be in writing,  
576 signed by the objecting party or counsel of record for the objecting party and shall be filed with the  
577 clerk of the juvenile and domestic relations district court in which the petition was filed during the  
578 business day of the court, within the time period specified in this section. When no timely objection is  
579 filed, no hearing on this issue is required. Failure of the objecting party to appear at any scheduled  
580 hearing, either in person or by counsel, shall constitute a waiver of such objection.

581 d. The juvenile and domestic relations district court may accept the written consent of the birth father  
582 at the time of the child's conception or birth, provided that his identifying information required in  
583 § 63.2-1232 is filed in writing with the juvenile and domestic relations district court of jurisdiction. Such  
584 consent shall advise the birth father of his opportunity for legal representation, shall identify the court in  
585 which the case was or is intended to be filed, and shall be presented to the juvenile and domestic  
586 relations district court for acceptance. The consent may waive further notice of the adoption proceedings  
587 and shall contain the name, address and telephone number of the birth father's legal counsel or an  
588 acknowledgment that he was informed of his opportunity to be represented by legal counsel and  
589 declined such representation. For good cause shown, the court may dispense with the requirements  
590 regarding the filing of the birth father's identifying information pursuant to this subdivision 1. d.

591 e. In the event that the birth mother's consent is not executed in the juvenile and domestic relations  
592 district court, the consent of the birth father shall be executed in the juvenile and domestic relations  
593 district court.

594 f. A child born to a married birth mother shall be presumed to be the child of her husband and his  
595 consent shall be required, unless the court finds that the father's consent is withheld contrary to the best  
596 interests of the child as provided in § 63.2-1205 or if his consent is unobtainable. The consent of such  
597 presumed father shall be under oath and in writing and may be executed in or out of court. The  
598 presumption that the husband is the father of the child may be rebutted by sufficient evidence,  
599 satisfactory to the juvenile and domestic relations district court, which would establish by a  
600 preponderance of the evidence the paternity of another man or the impossibility or improbability of  
601 cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of  
602 the child, in which case the husband's consent shall not be required. The executed denial of paternity by  
603 the putative father shall be sufficient to rebut the presumption that he is the father of the child. If the  
604 court is satisfied that the presumption has been rebutted, notice of the adoption shall not be required to  
605 be given to the presumed father.

606 2. After the application of the provisions of subdivision 1, if a birth parent is entitled to a hearing,  
607 the birth parent shall be given notice of the date and location of the hearing and be given the  
608 opportunity to appear before the juvenile and domestic relations district court. Such hearing may occur  
609 subsequent to the proceeding wherein the consenting birth parent appeared but may not be held until 15  
610 days after personal service of notice on the nonconsenting birth parent, or if personal service is  
611 unobtainable, 10 days after the completion of the execution of an order of publication against such birth  
612 parent. The juvenile and domestic relations district court may appoint counsel for the birth parent(s). If

613 the juvenile and domestic relations district court finds that consent is withheld contrary to the best  
 614 interests of the child, as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without  
 615 such consent and enter an order waiving the requirement of consent of the nonconsenting birth parent  
 616 and transferring custody of the child to the prospective adoptive parents. No further consent or notice  
 617 shall be required of a birth parent who fails to appear at any scheduled hearing, either in person or by  
 618 counsel. If the juvenile and domestic relations district court denies the petition, the juvenile and  
 619 domestic relations district court shall order that any consent given for the purpose of such placement  
 620 shall be void and, if necessary, the court shall determine custody of the child as between the birth  
 621 parents.

622 3. Except as provided in subdivisions 4 and 5, if consent cannot be obtained from at least one birth  
 623 parent, the juvenile and domestic relations district court shall deny the petition and determine custody of  
 624 the child pursuant to § 16.1-278.2.

625 4. If a child has been under the physical care and custody of the prospective adoptive parents and if  
 626 both birth parents have failed, without good cause, to appear at a hearing to execute consent under this  
 627 section for which they were given proper notice pursuant to § 16.1-264, the juvenile and domestic  
 628 relations district court may grant the petition without the consent of either birth parent and enter an  
 629 order waiving consent and transferring custody of the child to the prospective adoptive parents. Prior to  
 630 the entry of such an order, the juvenile and domestic relations district court may appoint legal counsel  
 631 for the birth parents and shall find by clear and convincing evidence (i) that the birth parents were given  
 632 proper notice of the hearing(s) to execute consent and of the hearing to proceed without their consent;  
 633 (ii) that the birth parents failed to show good cause for their failure to appear at such hearing(s); and  
 634 (iii) that pursuant to § 63.2-1205, the consent of the birth parents is withheld contrary to the best  
 635 interests of the child or is unobtainable. Under this subdivision, the court or the parties may waive the  
 636 requirement of the simultaneous meeting under § 63.2-1231 and the requirements of subdivisions A 1, A  
 637 3, and A 7 of § 63.2-1232 where the opportunity for compliance is not reasonably available under the  
 638 applicable circumstances.

639 5. If both birth parents are deceased, the juvenile and domestic relations district court, after hearing  
 640 evidence to that effect, may grant the petition without the filing of any consent.

641 6. No consent shall be required from the birth father of a child placed pursuant to this section when  
 642 such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of  
 643 § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and  
 644 the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of  
 645 any of the proceedings under this section.

646 7. No consent shall be required of a birth father if he denies under oath and in writing the paternity  
 647 of the child. Such denial of paternity may be withdrawn no more than 10 days after it is executed. Once  
 648 the child is 10 days old, any executed denial of paternity is final and constitutes a waiver of all rights  
 649 with the respect to the adoption of the child and cannot be withdrawn.

650 8. A birth father may consent to the adoption prior to the birth of the child.

651 9. The juvenile and domestic relations district court shall review each order entered under this section  
 652 at least annually until such time as the final order of adoption is entered.

653 10. When there has been an interstate transfer of the child in a parental placement adoption in  
 654 compliance with Chapter 10 (§ 63.2-1000 et seq.) of this title, all matters relating to the adoption of the  
 655 child including, but not limited to, custody and parentage shall be determined in the court of appropriate  
 656 jurisdiction in the state that was approved for finalization of the adoption by the interstate compact  
 657 authorities.

658 **§ 63.2-1249. Establishment of Registry.**

659 A. A ~~Putative~~ *Virginia Birth Father Registry* is hereby established in the Department of Social  
 660 Services.

661 B. There is hereby created in the state treasury a special nonreverting fund to be known as the  
 662 ~~Putative~~ *Virginia Birth Father Registry Fund*, hereafter referred to as "the Fund." The Fund shall be  
 663 established on the books of the Comptroller. All moneys collected under § 63.2-1201 shall be paid into  
 664 the state treasury and credited to the Fund. Interest earned on moneys in the Fund shall remain in the  
 665 Fund and be credited to it. Any moneys remaining in the Fund, including interest thereon, at the end of  
 666 each fiscal year shall not revert to the general fund by shall remain in the Fund. Moneys in the Fund  
 667 shall be used solely for the purposes of administration of the ~~Putative~~ *Virginia Birth Father Registry*.  
 668 Expenditures and disbursements from the Fund shall be made by the State Treasurer on warrants issued  
 669 by the Comptroller upon written request signed by the Commissioner or his designee.

670 **§ 63.2-1250. Registration; notice; form.**

671 A. ~~Except as otherwise provided in subsection C,~~ *Any man who has engaged in sexual intercourse*  
 672 *with a woman is deemed to be on legal notice that a child may be conceived and that the man is*  
 673 *entitled to all legal rights and obligations resulting therefrom. Lack of knowledge of the pregnancy does*

674 *not excuse failure to timely register with the Virginia Birth Father Registry.*

675 *B. A man who desires to be notified of a placement of a child by a local board pursuant to*  
 676 *§ 63.2-900, a proceeding for adoption, or a proceeding for termination of parental rights regarding a*  
 677 *child that he may have fathered shall register with the Putative Virginia Birth Father Registry before the*  
 678 *birth of the child or within 10 days after the birth. A registrant shall promptly notify the registry of any*  
 679 *change in the information registered including but not limited to change of address. The Department*  
 680 *shall incorporate all new information received into its records but is not required to obtain current*  
 681 *information for incorporation in the registry.*

682 *C. Failure to timely register with the Virginia Birth Father Registry shall waive all rights of a man*  
 683 *who is not acknowledged to be, presumed to be, or adjudicated the father to withhold consent to an*  
 684 *adoption proceeding unless the man was led to believe through the birth mother's misrepresentation that*  
 685 *(i) the pregnancy was terminated or the mother miscarried when in fact the baby was born or (ii) the*  
 686 *child died when in fact the child is alive. Upon discovery of the misrepresentation, the man shall*  
 687 *register with the Virginia Birth Father Registry within 10 days.*

688 *B. D. A man will not prejudice any rights by failing to register if:*

689 *1. A father-child relationship between the man and the child has been established pursuant to*  
 690 *§ 20-49.1, 20-49.8, or if the man is a presumed father as defined in § 63.2-1202; or*

691 *2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent or*  
 692 *waive adoption consent is filed in the juvenile and domestic relations district court, or before a petition*  
 693 *for adoption or a petition for the termination of his parental rights is filed with the court.*

694 *C. Failure to register pursuant to subsection A shall waive all rights of a man who is not an*  
 695 *acknowledged, presumed, or adjudicated father to withhold consent to an adoption proceeding unless the*  
 696 *man was led to believe through the birth mother's fraud that (i) the pregnancy was terminated or the*  
 697 *mother miscarried when in fact the baby was born or (ii) that the child died when in fact the child is*  
 698 *alive. Upon the discovery of the fraud, the man shall register with the Putative Father Registry within 10*  
 699 *days.*

700 *E. Registration is timely if it is received by the Department within (i) 10 days of the child's birth or*  
 701 *(ii) the time specified in subsection C or F. Registration is complete when the signed registration form*  
 702 *is first received by the Department. The signed registration form shall be submitted in the manner*  
 703 *prescribed by the Department.*

704 *F. In the event that the identity and whereabouts of the birth father are reasonably ascertainable, the*  
 705 *child-placing agency or adoptive parents shall give written notice to the birth father of the existence of*  
 706 *an adoption plan and the availability of registration with the Virginia Birth Father Registry. Such*  
 707 *written notice shall be provided by personal service or by certified mailing to the birth father's last*  
 708 *known address. Registration is timely if the signed registration form is received by the Department*  
 709 *within 10 days of personal service of the written notice or within 13 days of the certified mailing date*  
 710 *of the written notice. The personal service or certified mailing may be completed either prior to or after*  
 711 *the birth of the child.*

712 *D. G. The child-placing agency or adoptive parent(s) shall give notice to a registrant who has timely*  
 713 *registered of a placement of a child by a local board pursuant to § 63.2-900, a proceeding for adoption,*  
 714 *or a proceeding for termination of parental rights regarding a child to a registrant who has timely*  
 715 *registered pursuant to subsection A. Notice shall be given pursuant to the requirements of this chapter or*  
 716 *§ 16.1-277.01 for the appropriate adoption proceeding.*

717 *E. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice*  
 718 *that a child may be conceived and the man is entitled to all legal rights and obligations resulting*  
 719 *therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely register. In the event*  
 720 *that the identity and whereabouts of the birth father are reasonably ascertainable, written notice of the*  
 721 *existence of an adoption plan and the availability of registration with the Putative Father Registry shall*  
 722 *be provided by personal service or by certified mailing to the man's last known address. The man shall*  
 723 *have no more than 10 days from the date of such personal service or certified mailing to register. The*  
 724 *personal service or certified mailing may be done either prior to or after the birth of the child.*

725 *F. H. 1. The Department shall prepare a form for registering with the agency that shall require (i) the*  
 726 *registrant's name, date of birth and social security number; (ii) the registrant's driver's license number*  
 727 *and state of issuance; (iii) the registrant's home address, telephone number, and employer; (iv) the name,*  
 728 *date of birth, ethnicity, address, and telephone number of the putative mother, if known; (v) the state of*  
 729 *conception; (vi) the place and date of birth of the child, if known; (vii) the name and gender of the*  
 730 *child, if known; and (viii) the signature of the registrant. No form for registering with the Putative*  
 731 *Virginia Birth Father Registry pursuant to this subsection shall be complete unless signed by the*  
 732 *registrant and the signed registration form is received by the Department in the manner prescribed by*  
 733 *the Department.*

734 *G. 2. The form shall also state that (i) timely registration entitles the registrant to notice of a*  
 735 *proceeding for adoption of the child or termination of the registrant's parental rights, (ii) registration*

736 does not commence a proceeding to establish paternity, (iii) the information disclosed on the form may  
 737 be used against the registrant to establish paternity, (iv) services to assist in establishing paternity are  
 738 available to the registrant through the Department, (v) the registrant should also register in another state  
 739 if conception or birth of the child occurred in another state, (vi) information on registries of other states  
 740 may be available from the Department, (vii) the form is signed under penalty of perjury, and (viii)  
 741 procedures exist to rescind the registration of a claim of paternity.

742 3. A registrant shall promptly notify the Virginia Birth Father Registry of any change in information,  
 743 including change of address. The Department shall incorporate all updated information received into its  
 744 records but is not required to request or otherwise pursue current or updated information for  
 745 incorporation in the registry.

746 **§ 63.2-1252. Search of registry.**

747 A. If no father-child relationship has been established pursuant to § 20-49.1, a petitioner for adoption  
 748 shall obtain from the Department a certificate that a search of the ~~Putative~~ Virginia Birth Father Registry  
 749 was performed. If the conception or birth of the child occurred in another state, a petitioner for adoption  
 750 shall obtain a certificate from that state indicating that a search of the putative father registry was  
 751 performed, if that state has a putative father registry.

752 B. The Department shall furnish to the requester a certificate of search of the registry upon the  
 753 request of an individual, court, or agency listed in § 63.2-1251. Any such certificate shall be signed on  
 754 behalf of the Department and state that a search has been made of the registry and a registration  
 755 containing the information required to identify the registrant has been found and is attached to the  
 756 certificate of search or has not been found. Within four business days from the receipt of the request,  
 757 the Department shall mail the certificate to the requestor by United States mail. Upon request of the  
 758 requestor and payment of any additional costs, the Department shall have the certificate delivered to the  
 759 requestor by overnight mail, in person, by messenger, by facsimile or other electronic communication.  
 760 The Department's certificate or an appropriate certificate from another state shall be sufficient proof the  
 761 registry was searched.

762 C. A petitioner shall file the certificate of search with the court before a proceeding for adoption of,  
 763 or termination of parental rights regarding, a child may be concluded.

764 D. A certificate of search of the ~~Putative~~ Virginia Birth Father Registry is admissible in a proceeding  
 765 for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal  
 766 proceedings.

767 **§ 63.2-1253. Duty to publicize registry.**

768 A. The Department shall produce and distribute a pamphlet or other publication informing the public  
 769 about the ~~Putative~~ Virginia Birth Father Registry including (i) the procedures for voluntary  
 770 acknowledgement of paternity, (ii) the consequences of acknowledgement and failure to acknowledge  
 771 paternity pursuant to § 20-49.1, (iii) a description of the ~~Putative~~ Virginia Birth Father Registry  
 772 including to whom and under what circumstances it applies, (iv) the time limits and responsibilities for  
 773 filing, (v) paternal rights and associated responsibilities, and (vi) other appropriate provisions of this  
 774 article.

775 B. Such pamphlet or publication shall include a detachable form that meets the requirements of  
 776 subsection ~~F~~ H of § 63.2-1250, is suitable for United States mail, and is addressed to the ~~Putative~~  
 777 Virginia Birth Father Registry. Such pamphlet or publication shall be made available for distribution at  
 778 all offices of the Department of Health and all local departments of social services. The Department  
 779 shall also provide such pamphlets or publications to hospitals, libraries, medical clinics, schools,  
 780 universities, and other providers of child-related services upon request.

781 C. The Department shall provide information to the public at large by way of general public service  
 782 announcements, or other ways to deliver information to the public about the ~~Putative~~ Virginia Birth  
 783 Father Registry and its services.