

VIRGINIA ACTS OF ASSEMBLY -- 2021 SPECIAL SESSION I

CHAPTER 252

An Act to amend and reenact § 63.2-1241 of the Code of Virginia, relating to confirmatory adoption.

[S 1321]

Approved March 18, 2021

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-1241 of the Code of Virginia is amended and reenacted as follows:

Article 4.

Stepparent and Confirmatory Adoption.

§ 63.2-1241. Adoption of child by spouse of birth or adoptive parent or other person with legitimate interest.

A. In cases in which the spouse of a birth parent or parent by adoption *or a person with a legitimate interest* who is not the birth parent of a child wishes to adopt the child, the birth parent *or parent by adoption* and ~~his such parent's~~ spouse *or other person with a legitimate interest* may file a petition for adoption in the circuit court of the county or city where the birth parent *or parent by adoption* and ~~his such parent's~~ spouse *or other person with a legitimate interest* reside or the county or city where the child resides. The petition shall be the joint petition of the birth parent *or parent by adoption* and ~~his such parent's~~ spouse *or other person with a legitimate interest*, but the birth parent *or parent by adoption* 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 and under oath; (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 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; (vi) the parent by adoption joining in the petition was not married at the time the child was adopted; or (vii) the child is 14 years of age or older and has lived in the home of the person desiring to adopt the child for at least five years. 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 *or other person with a legitimate interest*, 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.

D. In any case involving adoption of a child by a stepparent *or other person with a legitimate interest* pursuant to this section, the court may waive appointment of a guardian ad litem for the child.

E. *For the purposes of this section, "person with a legitimate interest" means the same as that term is defined in § 20-124.1.*