

**SJR 331**  
**Study of Virginia's Adoption Laws and Policies**  
*<http://dls.state.va.us/adoption.htm>*

**Summary of May 24, 2005 meeting  
and  
Outline of recommendations proposed to the Joint Subcommittee**

**Election of Chair and Vice-Chair**

As the first order of business, the members elected Senator O'Brien as chair and Delegate McQuigg as vice-chair of the Joint Subcommittee.

**Chair's opening remarks**

Senator O'Brien introduced himself and explained the Joint Subcommittee's charge to study Virginia's adoption laws and policies. He acknowledged that current adoption laws are somewhat cumbersome and confusing, and that input from the public and subcommittee members would be welcome and vital to identifying ways to improve the adoption process in Virginia - an extremely important and worthwhile cause. He then allowed for the other subcommittee members to introduce themselves.

**Overview of adoption laws and review of recent studies and legislative trends**

Jeff Gore, staff attorney with the Virginia Division of Legislative Services presented an overview of Virginia's adoption laws and a review of recent legislative and executive branch studies and recent legislation. Virginia has essentially two types of adoption processes: agency adoptions and parental placement adoptions, the former allowing for more anonymity, and the latter requiring more openness. The majority of Virginia's adoption laws are set out in Chapter 12 of Title 63.2 of the Code of Virginia. Step parent adoptions are the most common in Virginia, followed by agency placements, and other parental placements. Numerous executive and legislative branch studies have been conducted over the past 30 years, most of which looked at protecting the best interests of children, streamlining the adoption process, or reorganizing adoption statutes. Adoption-related legislation has been increasing recently. Click [here](#) for the text of the presentation.

**Child and Family Services Review**

Vickie Johnson- Scott, Director, Division of Family Services at the Virginia Department of Social Services briefed the subcommittee on the status of the Child and Family Services Review. Department recommendations regarding the adoption process include shortening the length of time that agencies are permitted to submit their report to the court from 90 to 60 days, and adding provisions regarding birth parent responsibilities. Click [here](#) for the DSS power point presentation. Please see the attached outline for specific DSS recommendations.

**Adoption agencies' presentations**

Linda Cullen from Catholic Charities, Kevin Broderick of LDS Family Services, and Rebecca Ricardo of Coordinators2inc., were all on hand to represent their respective private adoption agencies. They suggested ways to improve Virginia's adoption laws, focusing on the areas of openness of adoption records and openness during the adoption process, including alternatives to

the current system that allows for either closed (agency) adoptions or open (parental placement) adoptions. The rights and responsibilities of birth fathers were also discussed in depth, in addition to the need to streamline the Virginia birth certificate process for foreign adoptees. Click [here](#) for presentations and materials. Please see the attached outline for specific recommendations from these presenters.

### **Legal process**

Rodney Poole, Esq., a member of the American Academy of Adoption Attorneys gave historical background on his experience as an adoption attorney in Virginia for the past 20 plus years, and the problems and improvements he has seen relative to Virginia's adoption laws and policies during that time. Mr. Poole urged the subcommittee to hold as many public hearings as possible (time and appropriations permitting) around the state in formulating its recommendations - a process that Tennessee recently undertook over a two year period with apparent success. He stated that much confusion could be eliminated by centralizing all adoption laws in one title of the Virginia Code. Currently, relevant provisions are spread among Titles 63.2, 16.1, and 32.1 among others. Please see the attached outline for specific recommendations from Mr. Poole.

### **Public comments**

Stanton Phillips, Esq., an adoption attorney in Vienna, spoke briefly during the public comment period. Mr. Phillips is a member of the American Academy of Adoption Attorneys, is active in this area for the Virginia State Bar, and has participated in a number of the previous adoption studies conducted in Virginia. He offered his assistance to the subcommittee throughout the study process, as did the other presenters.

### **Member discussion of work plan**

The members discussed the possibility of holding a meeting outside of Richmond in order to gain more public participation. This remains a possibility, however no conclusion was reached. The next scheduled meeting is June 22 at 10am in the General Assembly Building. Staff was instructed to compile recommendations from the May 24 meeting and circulate them among the subcommittee members in advance of that meeting. The final two (of the allotted four meetings) will most likely be in early and late fall, taking into consideration November elections.

### **Members (\*present at May 24, 2005 meeting):**

*Senator Jay O'Brien	Senator Frederick M. Quayle
*Delegate Robert H. Brink	*Mr. Frederick P. Helm
*Delegate Benjamin L. Cline	*Ms. Barbara C. Jones
Delegate Robert Hurt	Mr. Jack Knapp
*Delegate Michele B. McQuigg	*Mr. Anthony Conyers, Jr., Ex Officio

### **Staff:**

\*Jeff Gore, Staff Attorney, *Division of Legislative Services*  
\*Jescey French, Senior Staff Attorney, *Division of Legislative Services*  
\*Patty Lung, *Senate Committee Operations*

**Recommendations Proposed on May 24, 2005 to the  
Joint Subcommittee Studying Virginia's Adoption Laws and Policies pursuant  
to SJR 331 (2005)**

**Category 1: Virginia adoption procedures / study process**

1. In agency placement adoptions, the agency should be allowed no more than 60 days to submit the Report of Investigation to the court. Existing law allows 90 days. (DSS)
2. Remove existing requirement that the court withhold consideration of the merits of the petition for 21 days pending review of the agency report by the DSS Commissioner. (DSS)
3. Clarify existing procedures for obtaining Virginia birth certificates in international adoptions without re-finalizing the adoption, but continue to require international adoptive families to participate in post-placement supervision. (Coordinators2inc.)
4. Simplify Virginia's adoption laws. (consensus)
5. Condense all adoption laws into one Code Title; for example, there is an inconsistency between the best interests of the child provisions in Titles 16.1 and 63.2. (Poole)
6. Conduct as many public hearings throughout the state as possible, look to Tennessee as a model. (Poole)

**Category 2: Best Interests of the Child / Birth father rights and responsibilities**

1. Add provisions to the "best interests of the child" law (§ 63.2-1205) including consideration as to whether the birth parent refusing to consent to the adoption (father in most cases):
  - has made an effort to provide reasonable financial support for the child (DSS, LDS Family Services), has agreed to pay child support and assist the mother with pregnancy and birthing expenses (LDS Family Services);
  - has made continuous reasonable efforts to contact the child (DSS), has established a loving/close relationship with the child (LDS Family Services); and
  - is willing and able to take full custody of the child (LDS Family Services).

2. Consider establishing a Putative Father Registry (already in approx. 1/2 states) to protect the rights of responsible birth fathers and to protect children, birth mothers and adoptive families from the control or absence of irresponsible birth fathers. (LDS Family Services)
3. Adoptive placements of health infants should generally be with husband-and-wife couples. (LDS Family Services)

### **Category 3: Openness of adoption: parties and records**

1. Birth parents and adult adopted persons who desire to have contact should be able to do so, when both agree. (LDS Family Services) (Under current law, adoption records are open for parental placement adoptions to the adoptive parent, adoptee (18 or older), and birth parent without mutual consent of the parties. Under agency placement law, post placement sharing of identifying information requires an application to the Commissioner or a court order.)
2. Grant all adult adoptees access to their adoption records and their original birth certificates. (Coordinators2inc.)
3. Do not create a third form of adoption (designated adoption) in Virginia, because it would provide opportunities to intentionally circumvent parental placement. All adoptions should be open. (Coordinators2inc.)
4. The Code should provide for agency adoptions to be open or closed, depending on the wishes of the parties involved. (Catholic Charities)

### **Category 4: Miscellaneous**

1. Allow all adoptive children in Virginia access to adoption subsidy funds if they meet the special needs criteria. Currently, subsidy funds are not available in parental placement and international adoptions. (Coordinators2inc.)
2. Request the Virginia State Bar and the Department of Social Services to update and publish the "Adoption in Virginia" handbook in 2006. (Staff)