

SUMMARY*Handed #1***Recommended Administrative Changes to the Adoption Laws**
(§ 63.2-1200 Through § 63.2-1248)**SUMMARY PARAGRAPH**

The changes here are almost entirely administrative in nature. They deal with jurisdiction, timing of filing, review by courts and the Division of Social Services, timing of consent and revocation of consent and many other matters regarding the everyday operations of adoption in Virginia.

Statutes Changed:

§§ 63.2-1200 through 63.2-1202, § 63.2-1205, § 63.2-1208, § 63.2-1210, § 63.2-1213, §§ 63.2-1222 and 63.2-1223, §§ 63.2-1227 and 63.2-1228, § 63.2-1230, §§ 63.2-1233 and 63.2-1234, and § 63.2-1237.

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 birth A BILL to amend and reenact § of the Code of Virginia, relating to

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

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

4 § 63.2-1200. Who may place children for adoption. -

5 A child may be placed for adoption by:

6 1. A licensed child-placing agency;

7 2. A local board; and

8 3. The child's parent or legal guardian if the placement is a parental placement; and

9 ~~4. Any agency outside the Commonwealth that is licensed or otherwise duly authorized to place~~
10 ~~children for adoption by virtue of the laws under which it operates; however, when any such agency~~
11 ~~outside the Commonwealth, or its agent, executes an entrustment agreement in the Commonwealth with~~
12 ~~a birth parent for the termination of all parental rights and responsibilities with respect to a child, the~~
13 ~~requirements of §§ 63.2-1221 through 63.2-1224 shall apply. Any entrustment agreement that fails to~~
14 ~~comply with such requirements shall be void.~~

15 § 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.

16 Proceedings for the adoption of a minor child and for a change of name of such child shall be
17 instituted only by petition to a circuit court in the county or city in which the petitioner resides, ~~or~~ in the
18 county or city ~~in which is located therein~~ in which the child-placing agency that placed the child is
19 located, or in the county or city in which a birth parent executed a consent pursuant to § 63.2-1233.

20 Such petition may be filed by any ~~natural~~ person who resides in the Commonwealth, or who has custody
21 of a child placed by a child-placing agency of the Commonwealth, or an adopting parent of a child who
22 was subject to a consent proceeding held pursuant to § 63.2-1233. The petition shall ask ~~for~~ leave to
23 adopt a minor child not legally ~~his~~ the petitioner's by birth and, if it is so desired by the petitioner, also to
24 change the name of such child. In the case of married persons, the petition shall be the joint petition of

25 the husband and wife but, in the event the child to be adopted is legally the child by birth or adoption of
26 one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to
27 the prayer thereof only. The petition shall contain a full disclosure of the circumstances under which the
28 child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed
29 by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry
30 of an adoption order without referral for investigation, the petition shall be under oath.

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

35 § 63.2-1202. Parental, or agency, consent required; exceptions.

36 A. No petition for adoption shall be granted, except as hereinafter provided in this section, unless
37 written consent to the proposed adoption is filed with the petition. Such consent shall be signed and
38 acknowledged before an officer authorized by law to take acknowledgments. The consent of a birth
39 parent for the adoption of his child placed directly by the birth parent shall be executed as provided in §
40 63.2-1233, and the circuit court may accept a certified copy of an order entered pursuant to § 63.2-1233
41 in satisfaction of all requirements of this section, provided the order clearly evidences compliance with
42 the applicable notice and consent requirements of § 63.2-1233.

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

46 C. Consent shall be executed:

47 1. By the parents or surviving parent of a child born in wedlock in court or out of court as
48 allowed by statute and under oath and in writing. A child born to a married birth mother shall be
49 presumed to be the child of her husband and his consent shall be required. This presumption may be
50 rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a
51 preponderance of the evidence the paternity of another man, or the impossibility or improbability of

52 cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of
53 the child, in such case his consent shall not be required. If the court is satisfied that the presumption has
54 been rebutted, notice of the adoption shall not be required to be given to the presumptive father. ~~If~~ If the
55 parents are divorced and the residual parental rights and responsibilities as defined in § 16.1-228 of one
56 parent have been terminated by terms of the divorce, or other order of a court having jurisdiction, the
57 petition may be granted without the consent of such parent; or

58 2. By the parents or surviving parent of a child born to parents who were not married to each
59 other at the time of the child's conception or birth. The consent of the birth father of a child born to
60 parents who were not married to each other at the time of the child's conception or birth shall not be
61 required (i) if the identity of the birth father is not reasonably ascertainable or (ii) if the identity of such
62 birth father is ascertainable and his whereabouts are known, such birth father is given notice of the
63 adoptive placement or adoption proceeding, including the date and location of the hearing, if a hearing
64 has been ~~by~~ scheduled, by registered or certified registered, certified or express mail ~~mail~~ to his last
65 known address, and such birth father fails to object to the adoption proceeding within ~~24~~ 10 days of the
66 mailing of such notice. ~~Such~~ Objection to the adoption shall be in writing, signed by the objecting party
67 or counsel of record for the objecting party and shall be filed with the clerk of the circuit court in which
68 the petition was filed during the business day of the court, within the time period specified in this
69 section. In lieu of appearing for an additional hearing when a birth father fails to timely object in
70 writing, a proposed order may be submitted to the court for entry. If a hearing is scheduled, F ~~failure of~~
71 the objecting party to appear at the ~~consent~~ hearing, either in person or by counsel, shall constitute a
72 waiver of such objection; or

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

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

79 D. No consent shall be required of a putative birth father if he denies under oath and in writing
80 the paternity of the child. Such denial of paternity can be withdrawn no more than 10 days after it is
81 executed or 10 days after the birth of the child, which ever is later. After the 10 day period has expired
82 the denial is final and constitutes a waiver of all rights with the respect to the child and cannot be
83 withdrawn.

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

88 EF. When a child has been placed by the birth parent(s) with the prospective adoptive parent(s)
89 who is the child's grandparent, great grandparent, adult brother or sister, adult uncle or aunt, or adult
90 great uncle or great aunt, the circuit court may accept the written and signed consent of the birth
91 parent(s) that has been acknowledged by an officer authorized by law to take such acknowledgments. If
92 the child has resided in the home of the prospective adoptive parents for less than 3 continuous years,
93 the provisions of Article 3 (§ 63.2-1230 et. seq.) shall apply

94 G. No consent shall be required of a birth parent of a child when the birth parent has neither
95 visited nor reasonably supported the child for a period (6) months without just cause. Once the person
96 seeking adoption establishes by a preponderance of the evidence that the birth parent has not met the
97 visitation and support requirements for the specified period, then the birth parent has the burden to
98 disprove the allegations or establish just cause. Incarceration shall not constitute just cause unless the
99 incarcerated parent can show a reasonable and continuous pattern of attempts to communicate with the
100 child and maintain parental responsibility while the parent is incarcerated. This provision shall not
101 infringe upon the birth parent's right to be given notice and the opportunity to be heard on the allegations
102 of abandonment.

103 § 63.2-1203. When consent is withheld or unobtainable.

104 A. If, after consideration of the evidence, the circuit court finds that the valid consent of any
105 person or agency whose consent is required is withheld contrary to the best interests of the child as set
106 forth in § 63.2-1205, or is unobtainable, the circuit court may grant the petition without such consent:

107 1. Twenty-one days after personal service of notice of petition on the party or parties whose
108 consent is required by this section; or

109 2. If personal service is unobtainable, ten days after the completion of the execution of an order
110 of publication against the party or parties whose consent is required by this section concerning the
111 petition; or

112 3. If the judge certifies on the record that the identity of any person whose consent is hereinabove
113 required is not reasonably ascertainable.

114 An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable
115 shall be sufficient evidence of this fact, provided there is no other evidence before the circuit court that
116 would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the
117 identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity
118 of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances
119 shall control, taking into account the relative interests of the child, the birth mother and the birth father.

120 B. If the child is not in the custody of a child-placing agency and both parents are deceased, the
121 circuit court, after hearing evidence to that effect, may grant the petition without the filing of any
122 consent.

123 § 63.2-1204. When consent is revocable; fraud or duress; mutual consent.

124 Parental consent to an adoption shall be revocable prior to the final order of adoption (i) upon
125 proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written, mutual
126 consent of the birth parents and prospective adoptive parents.

127 § 63.2-1205. Best interests of the child; standards for determining.

128 In determining whether the valid consent of any person whose consent is required is withheld
129 contrary to the best interests of the child, or is unobtainable, the circuit court or juvenile and domestic
130 relations district court, as the case may be, shall consider whether ~~the failure to grant~~ the failure to granting the petition

131 pending before it would be detrimental to in the best interest of the child. ~~In determining whether the~~
132 ~~failure to grant the petition would be detrimental to the child,~~ The circuit court or juvenile and domestic
133 relations district court, as the case may be, shall consider all relevant factors, including the birth
134 parent(s)' efforts to obtain or maintain legal and physical custody of the ~~child;~~ child; whether the birth
135 parent(s) are currently willing and able to assume full custody of the child; whether the birth parent(s)'
136 efforts to assert parental rights were thwarted by other people; the birth parent(s)' ability to care for the
137 child; the age of the child; the quality of any previous relationship between the birth parent(s) and the
138 child and between the birth parent(s) and any other minor children; whether the birth parent(s) have
139 established and maintained a loving and close relationship with the child; what the birth parents' desires
140 and plans are for the child's future; whether the birth parent(s)' have made an effort to provide
141 reasonable financial support for the child; whether the current home environment allows the child to
142 thrive academically, socially and emotionally; whether the non-custodial parent has made continuous
143 reasonable attempts to contact the child; what emotional and financial support the birth father provided
144 the birth mother during the last six months of the pregnancy; all relevant circumstances surrounding the
145 conception of the child; the age difference between the birth mother and birth father; the duration and
146 suitability of the child's present custodial environment; and the effect of a change of physical custody on
147 the child.

148 § 63.2-1206. No parental presumption after revocation period expires.

149 If, after the expiration of the appropriate revocation period provided for in § 63.2-1223 or § 63.2-
150 1234, a birth parent or an alleged birth parent attempts to obtain or regain custody of or attempts to
151 exercise parental rights to a child who has been placed for adoption, there shall be no parental
152 presumption in favor of any party. Upon the motion of any such birth parent or alleged birth parent, or
153 upon the motion of any person or agency with whom the child has been placed, the circuit or juvenile
154 and domestic relations district court, as the case may be, shall determine (i) whether the birth parent or
155 alleged birth parent is a person whose consent to the adoption is required and, if so, then (ii) pursuant to
156 § 63.2-1205, whether, in the best interest of the child, the consent of the person whose consent is
157 required is being withheld contrary to the best interest of the child or is unobtainable.

158 § 63.2-1207. Removal of child from adoptive home.

159 When a child is placed in an adoptive home pursuant to an adoptive home placement agreement
160 by a local board or by a licensed child-placing agency pursuant to § 63.2-1221, or by the birth parent or
161 legal guardian of the child pursuant to § 63.2-1230, and a circuit court of competent jurisdiction has not
162 entered an interlocutory order of adoption, such child shall not be removed from the physical custody of
163 the adoptive parents, except (i) with the consent of the adoptive parents; (ii) upon order of the juvenile
164 and domestic relations district court or the circuit court of competent jurisdiction; (iii) pursuant to §
165 63.2-904, which removal shall be subject to review by the juvenile and domestic relations district court
166 upon petition of the adoptive parents; or (iv) upon order of the juvenile and domestic relations district
167 court that accepted consent when consent has been revoked as authorized by § 63.2-1204 or § 63.2-
168 1223.

169 When a child has been placed in an adoptive home directly by the birth parents or legal guardian
170 of the child, the adoptive parents have been granted custody of the child pursuant to § 63.2-1233, and it
171 becomes necessary to remove the child from the home of the adoptive parents, the juvenile and domestic
172 relations district court entering such an order shall order that any consent given for the purposes of such
173 placement shall be void and shall determine the custody of the child.

174 § 63.2-1208. Investigations; report to circuit court.

175 A. Upon consideration of the petition, the circuit court shall, upon being satisfied as to proper
176 jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to
177 conduct an investigation and prepare a report unless no investigation is required pursuant to this chapter.
178 Upon entry of the order of reference, the clerk shall forward a copy of the order of reference, the petition
179 and all exhibits thereto to the Commissioner and the child placing agency retained to provide
180 investigative, reporting and supervisory services. If no Virginia agency provided such services, the
181 order of reference, petition and all exhibits shall be forwarded to the local director of social services of
182 the locality where the petitioners reside or resided at the time of filing the petition or had legal residence
183 at the time the petition was filed.

184 AB. Upon receiving a petition and order of reference from the circuit court, the applicable
185 agency shall make a thorough investigation of the matter and report thereon in writing, in such form as
186 the Commissioner may prescribe, to the circuit court within ~~90~~ 60 days after the copy of the petition and
187 all exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the
188 Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the
189 circuit court. On the report to the circuit court there shall be appended either acceptance of service or
190 certificate of the local director, or the representative of the child-placing agency, that copies were served
191 as this section requires, showing the date of delivery or mailing. ~~The Commissioner may notify the~~
192 ~~circuit court within 21 days of the date of delivery or mailing of the report as shown by the agency,~~
193 ~~during which time the circuit court shall withhold consideration of the merits of the petition pending~~
194 ~~review of the agency report by the Commissioner, of any disapproval thereof stating reasons for any~~
195 ~~further action on the report that he deems necessary.~~ The circuit court shall consider the merits of the
196 petition immediately upon receipt of the report.

197 BC. If the report is not made to the circuit court within the periods specified, the circuit court
198 may proceed to hear and determine the merits of the petition and enter such order or orders as the circuit
199 court may deem appropriate.

200 CD. The investigation requested by the circuit court shall include, in addition to other inquiries
201 that the circuit court may require the child-placing agency or local director to make, inquiries as to (i)
202 whether the petitioner is financially able, except as provided in Chapter 13 (§ 63.2-1300 et seq.) of this
203 title, morally suitable, in satisfactory physical and mental health and a proper person to care for and to
204 train the child; (ii) what the physical and mental condition of the child is; (iii) why the parents, if living,
205 desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what
206 their attitude is toward the proposed adoption; (iv) whether the parents have abandoned the child or are
207 morally unfit to have custody over him; (v) the circumstances under which the child came to live, and is
208 living, in the same home of the petitioner; (vi) whether the child is a suitable child for adoption by the
209 petitioner; and (vii) what fees have been paid by the petitioners or on their behalf to persons or agencies
210 that have assisted them in obtaining the child. Any report made to the circuit court shall include a

211 recommendation as to the action to be taken by the circuit court on the petition. A copy of any report
212 made to the circuit court shall be furnished to counsel of record representing the adopting parent or
213 parents. When the investigation reveals that there may have been a violation of § 63.2-1200 or § 63.2-
214 1218, the local director or child-placing agency shall so inform the circuit court and the Commissioner.

215 DE. The report shall include the relevant physical and mental history of the birth parents if
216 known to the person making the report. The child-placing agency or local director shall document in the
217 report all efforts they made to encourage birth parents to share information related to their physical and
218 mental history. However, nothing in this subsection shall require that an investigation of the physical
219 and mental history of the birth parents be made.

220 EF. If the specific provisions set out in §§ 63.2-1228, 63.2-1238, 63.2-1242 and 63.2-1244 do
221 not apply, the petition and all exhibits shall be forwarded to the local director where the petitioners
222 reside or to a licensed child-placing agency.

223 § 63.2-1209. Entry of interlocutory order.

224 If, after considering the home study or any required report, the circuit court is satisfied that all of
225 the applicable requirements have been complied with, that the petitioner is financially able to maintain
226 adequately, except as provided in Chapter 13 (§ 63.2-1300 et seq.) of this title, and is morally suitable
227 and a proper person to care for and train the child, that the child is suitable for adoption by the petitioner,
228 and that the best interests of the child will be promoted by the adoption, it shall enter an interlocutory
229 order of adoption declaring that henceforth, subject to the probationary period hereinafter provided for
230 and to the provisions of the final order of adoption, the child will be, to all intents and purposes, the
231 child of the petitioner. If the petition includes a prayer for a change of the child's name and the circuit
232 court is satisfied that such change is in the best interests of the child, upon entry of final order, the name
233 of the child shall be changed. An attested copy of every interlocutory order of adoption shall be
234 forwarded forthwith by the clerk of the circuit court in which it was entered to the Commissioner and to
235 the licensed or duly authorized child-placing agency or the local director that prepared the required
236 home study or report.

237 If the circuit court denies the petition for adoption and if it appears to the circuit court that the
238 child is without proper care, custody or guardianship, the circuit court may, in its discretion, appoint a
239 guardian for the child or commit the child to a custodial agency as provided for in §§ 16.1-278.2, 16.1-
240 278.3 and 31-5, respectively.

241 § 63.2-1210. Probationary period and interlocutory order not required under certain
242 circumstances.

243 The circuit court may omit the order of reference, probationary period and the interlocutory ~~order~~
244 ~~and order and~~ enter a final final order of adoption under the following circumstances:

245 1. If ~~the~~ The child is legally the child by birth or adoption of one of the petitioners or the petitioner
246 is a stepparent of the child and if the circuit court is of the opinion that the entry of an interlocutory
247 order would otherwise be proper, If the petitioner qualifies under this subsection, no order of reference
248 required by §63.2-1208 is needed.

249 2. After receipt of the report required by § 63.2-1208, if the child has been placed in the home of
250 the petitioner by a child-placing agency and (i) the placing or supervising agency certifies to the circuit
251 court that the child has lived in the home of the petitioner continuously for a period of at least six
252 months immediately preceding the filing of the petition and has been visited by a representative of such
253 agency at least three times within a six-month period, provided there are not less than ninety days
254 between the first visit and the last visit, and (ii) the circuit court is of the opinion that the entry of an
255 interlocutory order would otherwise be proper. The circuit court may, for good cause shown, in cases of
256 placement by a child-placing agency, omit the requirement that the three visits be made in the within a
257 six months period, immediately preceding the filing of the petition, provided that such visits were made
258 in some six month period preceding the filing.

259 3. After receipt of the report, if the child has resided in the home of the petitioner continuously
260 for at least three years immediately prior to the filing of the petition for adoption, and the circuit court is
261 of the opinion that the entry of an interlocutory order would otherwise be proper.

262 4. When a child has been placed by the birth parent with the prospective adoptive parent who is
263 the child's grandparent, great-grandparent, adult brother or sister, adult uncle or aunt, ~~or~~ adult great uncle

264 or great aunt, or the adoptee is 18 years of age or older and the circuit court has accepted the written
265 consent of the birth parent in accordance with § 63.2-1202, and the circuit court is of the opinion that the
266 entry of an interlocutory order would otherwise be proper. If the circuit court determines the need for an
267 investigation prior to the final order of adoption, it shall refer the matter to the local director or a
268 licensed child - placing agency for an investigation and report, which shall be completed within such
269 time as the circuit court designates.

270 5. After receipt of the report, if the child has been legally adopted according to the laws of a
271 foreign country with which the United States has diplomatic relations and if the circuit court is of the
272 opinion that the entry of an interlocutory order would otherwise be proper, and the child (i) has resided
273 in the home of the petitioners for at least one year immediately prior to the filing of the petition, and a
274 representative of a child-placing agency has visited the petitioner and child at least once in the six
275 months immediately preceding the filing of the petition or during its investigation pursuant to §63.2-
276 1208 or (ii) has ~~resided~~ been in the ~~home~~ physical custody of the petitioners for at least six months
277 immediately prior to the filing of the petition, has been visited by a representative of a child-placing
278 agency or of the local department three times within such six-month period with no fewer than ninety
279 days between the first and last visits, and the ~~three last visits have~~ has occurred within ~~eight~~ six months
280 immediately prior to the filing of the petition.

281 6. After receipt of the report, if the child was placed into Virginia from a foreign country in
282 accordance with § 63.2-1104, and if the child has ~~resided~~ been in the ~~home~~ physical custody of the
283 petitioner for at least six months immediately prior to the filing of the petition and has been visited by a
284 representative of a licensed child-placing agency or of the local department three times within the six-
285 month period with no fewer than ninety days between the first and last visits, ~~and the three visits have~~
286 ~~occurred within eight months immediately prior to the filing of the petition.~~ The circuit court may, for
287 good cause shown, in cases of an international placement, omit the requirement that the three visits be
288 made within a six month period.

289 § 63.2-1211. Revocation of interlocutory order.

290 The circuit court may, by order entered of record, revoke its interlocutory order of adoption at
291 any time prior to the entry of the final order, for good cause shown, on its own motion, or on the motion
292 of the birth parents of the child, or of the petitioner, or of the child himself by his next friend, or of the
293 child-placing agency, which placed the child with the petitioners or of the Commissioner; but, no such
294 order of revocation shall be entered, except on motion of the petitioner, unless the petitioner is given ten
295 days' notice of such motion in writing and an opportunity to be heard or has removed from the
296 Commonwealth. The clerk of the circuit court shall forward an attested copy of every such order to the
297 Commissioner and to the child-placing agency that placed the child.

298 When an interlocutory order has been entered and subsequently is revoked, the circuit court may
299 proceed in the same manner as set forth in § 63.2-1209 to enter an order concerning the subsequent
300 custody or guardianship of the child.

301 § 63.2-1212. Visitations during probationary period and report.

302 A. Except as hereinafter provided, after the entry of an interlocutory order of adoption, (i) the
303 licensed or duly authorized child-placing agency; (ii) if the child was not placed by an agency and the
304 placement is not a parental placement, the local director; (iii) if the placement is a parental placement,
305 the child-placing agency that submitted the home study; or, (iv) if the child was placed by an agency in
306 another state or by an agency, court, or other entity in another country, the local director or licensed
307 child-placing agency, whichever agency completed the home study or provided supervision, shall cause
308 the child to be visited at least three times within a period of six months by an agent of such local board
309 or local department or by an agent of such licensed or duly authorized child-placing agency. Whenever
310 practicable, such visits shall be made within the six-month period immediately following the date of
311 entry of the interlocutory order; however, no less than ninety days shall elapse between the first visit and
312 the last visit. The agency that placed the child, the child-placing agency that submitted the home study,
313 the local director or the licensed child-placing agency, as applicable, shall make a written report to the
314 circuit court, in such form as the Commissioner may prescribe, of the findings made pursuant to such
315 visitations. A copy of the report to the circuit court shall be furnished to the counsel of record for the
316 parties, which copy shall be returned by such counsel as is required by § 63.2-1246 for the return of the

317 original report. A copy of the report to the circuit court shall be served on the Commissioner by
318 delivering or mailing a copy to him on or before the day of filing the report with the circuit court. On the
319 report to the circuit court there shall be appended either acceptance of service or certification of the local
320 director or the representative of the child-placing agency, that copies were served as this section
321 requires, showing the date of delivery or mailing. The Commissioner may notify the circuit court within
322 twenty-one days of the date of delivery or mailing of the report as shown by the agency, during which
323 time the circuit court shall withhold consideration of the merits of the report pending review of the
324 report by the Commissioner, of any disapproval thereof stating reasons for any further action on the
325 report that he deems necessary.

326 B. The three supervisory visits required in subsection A shall be conducted in the presence of the
327 child. At least one such visit shall be conducted in the home of the petitioners in the presence of the
328 child and both petitioners, unless the petition was filed by a single parent or one of the petitioners is no
329 longer residing in the home.

330 C. When it is determined for purposes of subsection B that the petitioner no longer resides in the
331 adoptive home, the child-placing agency or local director shall contact the petitioner to determine
332 whether or not the petitioner wishes to remain a party to the proceedings and shall include in its report to
333 the circuit court the results of its findings.

334 § 63.2-1213. Final order of adoption.

335 ~~After the expiration of six months from the date upon which the interlocutory order is entered,~~
336 ~~and after considering~~ After consideration of the report made pursuant to § 63.2-1212, if the circuit court
337 is satisfied that the best interests of the child will be served thereby, the circuit court shall enter the final
338 order of adoption, provided that the child has resided with the petitioner at least six months immediately
339 prior to entry of the final order of adoption. However, a final order of adoption shall not be entered until
340 information has been furnished by the petitioner in compliance with § 32.1-262 unless the circuit court,
341 for good cause shown, finds the information to be unavailable or unnecessary. No circuit court shall
342 deny a petitioner a final order of adoption for the sole reason that the child was placed in the adoptive
343 home by a person not authorized to make such placements pursuant to § 63.2-1200. An attested copy of

344 every final order of adoption shall be forwarded, by the clerk of the circuit court in which it was entered,
345 to the Commissioner and to the child-placing agency that placed the child or to the local director, in
346 cases where the child was not placed by an agency.

347 § 63.2-1214. Annual review of pending petitions for adoption; duty of Commissioner and circuit
348 court clerk.

349 After the expiration of twelve months from the date of the entry of the last order upon a petition
350 for adoption, except when the last order entered is a final order of adoption, it shall be the responsibility
351 of the Commissioner to notify the clerk of the circuit court of all adoption cases that have been pending
352 for a period of more than twelve months, and the clerk of the circuit court shall place on the docket all
353 such cases for review by the circuit court as soon as practicable.

354 § 63.2-1215. Legal effects of adoption.

355 The birth parents, and the parents by previous adoption, if any, other than any such parent who is
356 the husband or wife of one of the petitioners, shall, by final order of adoption, be divested of all legal
357 rights and obligations in respect to the child including the right to petition any court for visitation with
358 the child. Except where a final order of adoption is entered pursuant to § 63.2-1241, any person whose
359 interest in the child derives from or through the birth parent or previous adoptive parent, including but
360 not limited to grandparents, stepparents, former stepparents, blood relatives and family members shall,
361 by final order of adoption, be divested of all legal rights and obligations in respect to the child including
362 the right to petition any court for visitation with the child. In all cases the child shall be free from all
363 legal obligations of obedience and maintenance in respect to such persons divested of legal rights. Any
364 child adopted under the provisions of this chapter shall, from and after the entry of the interlocutory
365 order or from and after the entry of the final order where no such interlocutory order is entered, be, to all
366 intents and purposes, the child of the person or persons so adopting him, and, unless and until such
367 interlocutory order or final order is subsequently revoked, shall be entitled to all the rights and
368 privileges, and subject to all the obligations, of a child of such person or persons born in lawful wedlock.
369 An adopted person is the child of an adopting parent, and as such, the adopting parent shall be entitled to

370 testify in all cases civil and criminal, as if the adopted child was born of the adopting parent in lawful
371 wedlock.

372 § 63.2-1216. Final order not subject to attack after six months.

373 After the expiration of six months from the date of entry of any final order of adoption from
374 which no appeal has been taken to the Court of Appeals, the validity thereof shall not be subject to
375 attack in any proceedings, collateral or direct, for any reason, including but not limited to fraud, duress,
376 failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any
377 person, and such order shall be final for all purposes.

378 § 63.2-1217. Provision of false information; penalty.

379 Any person who knowingly and intentionally provides false information in writing and under
380 oath, which is material to an adoptive ~~placement~~placement, shall be guilty of a Class 6 felony. The
381 Commissioner is authorized to investigate such cases and may refer the case to the attorney for the
382 Commonwealth for prosecution.

383 § 63.2-1218. Certain exchange of property, advertisement, solicitation prohibited; penalty.

384 No person or child-placing agency shall charge, pay, give, or agree to give or accept any money,
385 property, service or other thing of value in connection with a placement or adoption or any act
386 undertaken pursuant to this chapter except (i) reasonable and customary services provided by a licensed
387 or duly authorized child-placing agency and fees paid for such services; (ii) payment or reimbursement
388 for medical expenses and insurance premiums that are directly related to the birth mother's pregnancy
389 and hospitalization for the birth of the child who is the subject of the adoption proceedings, for mental
390 health counseling received by the birth mother or birth father related to the adoption, and for expenses
391 incurred for medical care for the child; (iii) payment or reimbursement for reasonable and necessary
392 expenses for food, clothing, and shelter when, upon the written advice of her physician, the birth mother
393 is unable to work or otherwise support herself due to medical reasons or complications associated with
394 the pregnancy or birth of the child; (iv) payment or reimbursement for reasonable expenses incurred
395 incidental to any required court appearance including, but not limited to, transportation, food and
396 lodging; (v) usual and customary fees for legal services in adoption proceedings; and (vi) payment or

397 reimbursement of reasonable expenses incurred for transportation in connection with any of the services
398 specified in this section or intercountry placements as defined in § 63.2-100 and as necessary for
399 compliance with state and federal law in such placements. No person shall advertise or solicit to perform
400 any activity prohibited by this section. Any person violating the provisions of this section shall be guilty
401 of a Class 6 felony. The Commissioner is authorized to investigate cases in which fees paid for legal
402 services appear to be in excess of usual and customary fees in order to determine if there has been
403 compliance with the provisions of this section.

404 § 63.2-1219. Suspected violation of property exchange information.

405 If the juvenile and domestic relations or circuit court or any participating licensed or duly
406 authorized child-placing agency suspects that there has been a violation of § 63.2-1218 in connection
407 with a placement or adoption, it shall report such findings to the Commissioner for investigation and
408 appropriate action. If the Commissioner suspects that a person has violated § 63.2-1218, he shall report
409 his findings to the appropriate attorney for the Commonwealth. If the Commissioner believes that such
410 violation has occurred in the course of the practice of a profession or occupation licensed or regulated
411 pursuant to Title 54.1, he shall also report such findings to the appropriate regulatory authority for
412 investigation and appropriate disciplinary action.

413 § 63.2-1220. Issuance of birth certificates for children adopted in the Commonwealth and from
414 foreign countries.

415 A. For the purpose of securing a new birth certificate for an adopted child, the procedures set
416 forth in § 32.1-262 shall be followed.

417 B. Adoptive parents who are residents of the Commonwealth may petition the circuit court in the
418 city or county where they reside for a report of adoption when the adoptive parents are seeking a
419 Virginia certificate of birth for a child adopted in a foreign country that has post-adoption reporting
420 requirements and with whom the United States has diplomatic relations. The adoptive parents shall
421 provide the circuit court with evidence, such as an admission stamp in the child's passport, that the child
422 was admitted to the United States with an immediate relative immigrant visa (IR-3), a report of adoption
423 on a form furnished by the State Registrar of Vital Records, completed post-adoption reports, and a

424 signed affidavit stating that any outstanding post-adoption requirements shall be met as required by the
425 foreign country. The affidavit shall also include the name by which the child is to be known. The circuit
426 court shall review all documents provided by the adoptive parents. If the circuit court finds that all
427 requirements of this subsection have been met, the circuit court may issue the report of adoption to the
428 State Registrar for issuance of a Virginia certificate of birth in accordance with § 32.1-262.

429 C. Except as provided in subsection B, adoptive parents seeking to have a child from a foreign
430 country adopted or who choose to readopt a child from a foreign country in Virginia shall comply with
431 all adoption requirements of this chapter in order to get a Virginia certificate of birth.

432 § 63.2-1221. Placement of children for adoption by agency or local board.

433 A licensed child-placing agency or local board may place for adoption, and is empowered to
434 consent to the adoption of, any child who is properly committed or entrusted to its care, in accordance
435 with the provisions of §§ 63.2-900, 63.2-903, 63.2-1817 or this section, when the order of commitment
436 or the entrustment agreement between the birth parent(s) and the agency or board provides for the
437 termination of all parental rights and responsibilities with respect to the child for the purpose of placing
438 and consenting to the adoption of such child.

439 The entrustment agreement shall divest the birth parent(s) of all legal rights and obligations with
440 respect to the child, and the child shall be free from all legal obligations of obedience and maintenance
441 with respect to them, provided that such rights and obligations may be restored to the birth parent(s) and
442 the child by circuit court order prior to the entry of a final order of adoption upon proof of fraud or
443 duress. An entrustment agreement for the termination of all parental rights and responsibilities shall be
444 executed in writing and notarized.

445 § 63.2-1222. Execution of entrustment agreement by birth parent(s); exceptions; notice and
446 objection to entrustment; copy required to be furnished; requirement for agencies outside the
447 Commonwealth.

448 A. For the purposes of this section, a birth parent who is less than 18 years of age shall be
449 deemed fully competent and shall have legal capacity to execute a valid entrustment agreement,
450 including an agreement that provides for the termination of all parental rights and responsibilities, and

451 perform all acts related to adoption and shall be as fully bound thereby as if such birth parent had
452 attained the age of 18 years.

453 B. An entrustment agreement for the termination of all parental rights and responsibilities with
454 respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child born
455 out of wedlock if the identity of the birth father is not reasonably ascertainable, or if the putative birth
456 father named by the birth mother denies under oath and in writing paternity of the child, or if such birth
457 father is given notice of the entrustment by registered or certified mail to his last known address and
458 fails to object to the entrustment within 2+10 days of the mailing of such notice. Such objection shall be
459 in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed
460 with the agency that mailed the notice of entrustment within the time period specified in § 63.2-1223.
461 An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall
462 be sufficient evidence of this fact, provided there is no other evidence that would refute such an
463 affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth
464 father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is
465 reasonably ascertainable, the standard of what is reasonable under the circumstances shall control,
466 taking into account the relative interests of the child, the birth mother and the birth father.

467 A child born to a married birth mother shall be presumed to be the child of her husband and his
468 execution of an entrustment shall be required except under the following circumstances: (i) if he denies
469 paternity, in writing and under oath in accordance with § 63.2-1202 (D) (ii) if the presumption is
470 rebutted by sufficient evidence, satisfactory to the circuit court, which would establish by a
471 preponderance of the evidence the paternity of another man or the impossibility of cohabitation of birth
472 mother and her husband for a period of at least 300 days preceding the birth of the child or (iii) if
473 another man admits, in writing and under oath, that he is the biological father.

474 D. An entrustment agreement for the termination of all parental rights and responsibilities with
475 respect to the child shall be valid notwithstanding that it is not signed by the birth father of a child when
476 the birth father has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B

477 of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction,
478 and the child was conceived as a result of such violation.

479 E. A birth father not married to the mother of the child may execute an entrustment agreement
480 for the termination of all parental rights prior to the birth of the child.

481 F. A copy of the entrustment agreement shall be furnished to all parties signing such agreement.

482 G. When any agency outside the Commonwealth, or its agent, that is licensed or otherwise duly
483 authorized to place children for adoption by virtue of the laws under which it operates executes an
484 entrustment agreement in the Commonwealth with a birth parent for the termination of all parental rights
485 and responsibilities with respect to the child, the requirements of §§ 63.2-1221 through 63.2-1224 shall
486 apply. The birth parent may expressly waive, under oath and in writing, the execution of the
487 entrustment under the requirements of §§63.2-1221 through 63.2-1224 in favor of the execution of an
488 entrustment or relinquishment under the laws of another state if the birth parent is represented by
489 independent legal counsel. Such written waiver shall expressly state that the birth parent has received
490 independent legal counsel advising of the laws of Virginia and of the other state and that Virginia law is
491 expressly being waived. The waiver also shall include the name, address and telephone number of such
492 legal counsel.- Any entrustment agreement that fails to comply with such requirements shall be void.

493 § 63.2-1223. Revocation of entrustment agreement.

494 A valid entrustment agreement terminating all parental rights and responsibilities to the child
495 shall be revocable by either of the birth parents until (i) the child has reached the age of ~~twenty five~~ 10
496 days and (ii) fifteen 7 days have elapsed from the date of execution of the agreement. In addition, a valid
497 entrustment agreement shall be revocable by either of the birth parents if the child has not been placed in
498 the home of adoptive parents at the time of such revocation. Revocation of an entrustment agreement
499 shall be in writing and signed by the revoking party. The written revocation shall be delivered to the
500 child-placing agency or local board to which the child was originally entrusted. Delivery of the written
501 revocation shall be made during the business day of the child-placing agency or local board to which the
502 child was originally entrusted, in accordance with the applicable time period set out in this section. If the
503 revocation period expires on a Saturday, Sunday, legal holiday or any day on which the agency or local

504 board is officially closed, the revocation period shall be extended to the next day that is not a Saturday,
505 Sunday, legal holiday or other day on which the agency or local board is officially closed. Upon
506 revocation of the entrustment agreement, the child shall be returned to the parent revoking the
507 agreement.

508 § 63.2-1224. Counseling of birth parents required.

509 Prior to the placement of a child for adoption, the licensed child-placing agency or local board
510 having custody of the child shall counsel the birth mother or, if reasonably available, both birth parents,
511 concerning the disposition of their child.

512 § 63.2-1225. Determination of appropriate home.

513 In determining the appropriate home in which to place a child for adoption, a married couple or
514 an unmarried individual shall be eligible to receive placement of a child for purposes of adoption. When
515 an agency or a local board accepts custody of the child for the purpose of placing the child for adoption
516 with adoptive parents who have been designated by the birth parents, the agency or local board may give
517 consideration for placement of the child to the designated adoptive parents if the agency or local board
518 finds such placement to be in the best interests of the child. In addition, the agency or board may
519 consider the recommendations of a physician or attorney licensed in the Commonwealth, or a clergyman
520 who is familiar with the situation of the prospective adoptive parents or the child. The physician,
521 attorney or clergyman shall not charge any fee for recommending such a placement to a board or agency
522 and shall not advertise that he is available to make such recommendations.

523 § 63.2-1226. Parental placement sections apply if birth parents designate adoptive parents.

524 When a licensed child-placing agency or a local board accepts custody of a child for the purpose
525 of placing the child with adoptive parents designated by the birth parents or a person other than a
526 licensed child-placing agency or local board, the parental provisions of this chapter shall apply to such
527 placement.

528 § 63.2-1227. Filing of petition for agency adoption.

529 A petition for the adoption of a child placed in the home of the petitioners by a child-placing
530 agency shall be filed in the name by which the child will be known after adoption, provided the name is

531 followed by the registration number of the child's original birth certificate and the state or country in
532 which the registration occurred unless it is verified by the registrar of vital statistics of the state or
533 country of birth that such information is not available. In the case of a child born in another country, an
534 affidavit by a representative of the child placing agency that a birth certificate number is not available
535 may be substituted for verification by a registrar of vital statistics for that country. The report of
536 investigation required by § 63.2-1208 and, when applicable, the report required by § 63.2-1212 shall be
537 identified with the child's name as it appears on the birth certificate, the birth registration number and the
538 name by which the child is to be known after the final order of adoption is entered. The petition for
539 adoption shall not state the birth name of the child or identify the birth parents unless it is specifically
540 stated in the agency's consent that the parties have exchanged identifying information.

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

545 § 63.2-1228. Forwarding of petition.

546 Upon the filing of the petition, the circuit court shall, upon being satisfied as to proper
547 jurisdiction and venue, immediately enter an order referring the case to a child-placing agency to
548 conduct an investigation and prepare a report. Upon entry of the order of reference, the court shall
549 forward a copy of the petition and all exhibits thereto to the Commissioner and to the agency that placed
550 the child. In cases where the child was placed by an agency in another state, or by an agency, court, or
551 other entity in another country, the petition and all exhibits shall be forwarded to the local director or
552 licensed child-placing agency, whichever agency completed the home study or provided supervision. If
553 no Virginia agency provided such services, or such agency is no longer licensed or has gone out of
554 business, the petition and all exhibits shall be forwarded to the local director of the locality where the
555 petitioners reside or resided at the time of filing the petition, or had legal residence at the time of the
556 filing of the petition.

557 § 63.2-1229. Foster parent adoption.

558 When a foster parent who has a child placed in the foster parents' home by a licensed or duly
559 authorized child-placing agency desires to adopt the child and (i) the child has resided in the home of
560 such foster parent continuously for at least eighteen months and (ii) the birth parents' rights to the child
561 have been terminated, the circuit court shall accept the petition filed by the foster parent and shall order
562 a thorough investigation of the matter to be made pursuant to § 63.2-1208. The circuit court may refer
563 the matter for investigation to a licensed or duly authorized child-placing agency other than the agency
564 holding custody of the child. Upon completion of the investigation and report and filing of the consent
565 of the agency holding custody of the child, or upon the finding contemplated by subsection C of § 63.2-
566 1202, the circuit court may enter a final order of adoption waiving visitation requirements, if the circuit
567 court determines that the adoption is in the best interests of the child.

568 § 63.2-1230. Placement of children by parent or guardian.

569 The birth parent or legal guardian of a child may place his child for adoption directly with the
570 adoptive parents of his choice. Consent to the proposed adoption shall be executed upon compliance
571 with the provisions of this chapter before a juvenile and domestic relations district court or, if the birth
572 parent or legal guardian does not reside in Virginia, before a court having jurisdiction over child custody
573 matters in the jurisdiction where the birth parent or legal guardian resides when requested by a juvenile
574 and domestic relations district court of this Commonwealth, pursuant to § 20-146.11. Consent
575 proceedings shall be advanced on the juvenile and domestic relations district court docket so as to be
576 heard by the court as soon thereafter as practicable so as to provide the earliest possible disposition. The
577 hearing shall be heard at the latest 10 days following the filing of petition unless the petitioner requests a
578 later date, within ten days of filing of the petition, or as soon thereafter as practicable so as to provide the
579 earliest possible disposition.

580 § 63.2-1231. Home study; simultaneous meeting required; exception.

581 Prior to the consent hearing in the juvenile and domestic relations district court, a home study of
582 the adoptive parent(s) shall be completed by a licensed or duly authorized child - placing agency in
583 accordance with regulations adopted by the Board. The home study shall make inquiry as to (i) whether
584 the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and

585 mental health to enable them to care for the child; (ii) the physical and mental condition of the child, if
586 known; (iii) the circumstances under which the child came to live, or will be living, in the home of the
587 prospective adoptive family, as applicable; (iv) what fees have been paid by the prospective adoptive
588 family or in their behalf in the placement and adoption of the child; (v) whether the requirements of
589 subdivisions A 1, A 2, A 3 and A 5 of § 63.2-1232 have been met; and (vi) any other matters specified
590 by the circuit court. In the course of the home study, the agency social worker shall meet at least once
591 with the birth parent(s) and prospective adoptive parents simultaneously. When the child has been
592 placed with prospective adoptive parents who are related to the child as specified in subdivision 6 of §
593 63.2-1233, this meeting is not required.

594 § 63.2-1232. Requirements of a parental placement adoption.

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

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

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

605 3. The birth parent(s) and adoptive parents have exchanged identifying information including but
606 not limited to full names, addresses, physical, mental, social and psychological information and any
607 other information necessary to promote the welfare of the child.

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

611 5. There has been no violation of the provisions of § 63.2-1218 in connection with the
612 placement; however, if it appears there has been such violation, the court shall not reject consent of the
613 birth parent to the adoption for that reason alone but shall report the alleged violation as required by §
614 63.2-1219.

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

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

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

627 § 63.2-1233. Consent to be executed in juvenile and domestic relations district court; exceptions.

628 When the juvenile and domestic relations district court is satisfied that all requirements of §
629 63.2-1232 have been met with respect to at least one birth parent and the adoptive child is at least 10
630 days old in the third calendar day of life, that birth parent or both birth parents, as the case may be, shall
631 execute consent to the proposed adoption in compliance with the provisions of § 63.2-1202 while before
632 the juvenile and domestic relations district court in person and in the presence of the prospective
633 adoptive parents. The juvenile and domestic relations district court shall accept the consent of the birth
634 parent(s) and transfer custody of the child to the prospective adoptive parents, pending notification to
635 any non-consenting birth parent, as described hereinafter.

636 1. a. The execution of consent before the juvenile and domestic relations district court shall not
637 be required of a birth father who is not married to the mother of the child at the time of the child's

638 conception or birth if (i) the birth father consents under oath and in writing to the adoption; (ii) the birth
639 mother swears under oath and in writing that the identity of the birth father is not reasonably
640 ascertainable; (iii) the identity of the birth father is ascertainable and his whereabouts are known, he is
641 given notice of the proceedings by registered or certified mail to his last known address and he fails to
642 object to the proceeding within 21 days of the mailing of such notice. Such objection shall be in writing,
643 signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk
644 of the juvenile and domestic relations district court in which the petition was filed during the business
645 day of the court, within the time period specified in this section. Failure of the objecting party to appear
646 at the consent hearing, either in person or by counsel, shall constitute a waiver of such objection; or (iv)
647 the putative birth father named by the birth mother denies under oath and in writing paternity of the
648 child. An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable
649 shall be sufficient evidence of this fact, provided there is no other evidence before the juvenile and
650 domestic relations district court that would refute such an affidavit. The absence of such an affidavit
651 shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For
652 purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard
653 of what is reasonable under the circumstances shall control, taking into account the relative interests of
654 the child, the birth mother and the birth father.

655 b. The juvenile and domestic relations district court may accept the written consent of the birth
656 father who is not married to the birth mother of the child at the time of the child's conception or birth,
657 provided that the identifying information required in § 63.2-1232 is filed in writing with the juvenile and
658 domestic relations district court of jurisdiction. Such consent ~~shall be executed after the birth of the~~
659 ~~child~~, shall advise the birth father of his opportunity for legal representation, and shall be presented to
660 the juvenile and domestic relations district court for acceptance. The consent may waive further notice
661 of the adoption proceedings and shall contain the name, address and telephone number of the birth
662 father's legal counsel or an acknowledgment that he was informed of his opportunity to be represented
663 by legal counsel and declined such representation.

664 c. In the event that the birth mother's consent is not executed in the juvenile and domestic
665 relations district court, the consent of the birth father who is not married to the birth mother of the child
666 shall be executed in the juvenile and domestic relations district court.

667 d. A child born to a married birth mother shall be presumed to be the child of her husband and
668 his consent shall be required. The consent requirement may be waived if the court determines that
669 husband of the birth mother is withholding consent contrary to the best interest of the child provided that
670 he is given notice of the proceeding by service of a summons, or if his consent is unobtainable. The
671 consent of such husband may be executed in court or out of court under oath and in writing. This
672 presumption may be rebutted by sufficient evidence, satisfactory to the juvenile and domestic relations
673 district court, which would establish by a preponderance of the evidence the paternity of another man or
674 the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at
675 least 300 days preceding the birth of the child, in which case the husband's consent shall not be required.
676 If the court is satisfied that the presumption has been rebutted, notice of the adoption shall not be
677 required to be given to the presumptive father.

678 2. A birth parent whose consent is required as set forth in § 63.2-1202, whose identity is known
679 and who neither consents before the juvenile and domestic relations district court as described above,
680 nor executes a written consent to the adoption or a denial of paternity out of court as provided above,
681 shall be given notice, including the date and location of the hearing, of the proceedings pending before
682 the juvenile and domestic relations district court and be given the opportunity to appear before the
683 juvenile and domestic relations district court. Such hearing may occur subsequent to the proceeding
684 wherein the consenting birth parent appeared but may not be held until 21 days after personal service of
685 notice on the ~~noneconsenting~~non-consenting birth parent, or if personal service is unobtainable, 10 days
686 after the completion of the execution of an order of publication against such birth parent. The juvenile
687 and domestic relations district court may appoint counsel for the birth parent(s). If the juvenile and
688 domestic relations district court finds that consent is withheld contrary to the best interests of the child,
689 as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without such consent and enter
690 an order waiving the requirement of consent of the ~~noneconsenting~~non-consenting birth parent and

691 transferring custody of the child to the prospective adoptive parents, which order shall become effective
692 ~~15 days thereafter~~immediately. If the juvenile and domestic relations district court denies the petition,
693 the juvenile and domestic relations district court shall order that any consent given for the purpose of
694 such placement shall be void and, if necessary, the court shall determine custody of the child as between
695 the birth parents.

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

699 4. If the child was placed by the birth parent(s) with the prospective adoptive parents and if both
700 birth parents have failed, without good cause, to appear at a hearing to execute consent under this
701 section for which they were given proper notice pursuant to § 16.1-264, the juvenile and domestic
702 relations district court may grant the petition without the consent of either birth parent and enter an order
703 waiving consent and transferring custody of the child to the prospective adoptive parents, which order
704 shall become effective 15 days thereafter. Prior to the entry of such an order, the juvenile and domestic
705 relations district court may appoint legal counsel for the birth parents and shall find by clear and
706 convincing evidence (i) that the birth parents were given proper notice of the hearing(s) to execute
707 consent and of the hearing to proceed without their consent; (ii) that the birth parents failed to show
708 good cause for their failure to appear at such hearing(s); and (iii) that pursuant to § 63.2-1205, the
709 consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable.
710 Under this subdivision, the court shall waive the requirement of the simultaneous meeting under §62.3-
711 1231 and the requirements of §63.2-1232(A) (1), (3) and (7) where the opportunity for compliance is not
712 reasonable available under the applicable circumstances.

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

715 6. When a child has been placed by the birth parent(s) with prospective adoptive parents who are
716 the child's grandparents, great-grandparents, adult brother or sister, adult uncle or aunt or adult great
717 uncle or great aunt, consent does not have to be executed in the juvenile and domestic relations district

718 court in the presence of the prospective adoptive parents. The juvenile and domestic relations district
719 court may accept written consent that has been signed and acknowledged before an officer authorized by
720 law to take acknowledgments. No hearing shall be required for the court's acceptance of such consent.

721 When such child has resided in the home of the prospective adoptive parent(s) continuously for
722 three or more years, this section shall not apply, and consent shall be executed in accordance with
723 subsection E of § 63.2-1202.

724 7. No consent shall be required from the birth father of a child placed pursuant to this section
725 when such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of §
726 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the
727 child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of
728 the proceedings under this section.

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

731 § 63.2-1234. When consent is revocable.

732 Consent shall be revocable as follows:

733 1. By either consenting birth parent for any reason ~~for up to fifteen days from its execution, until~~
734 the child is ten days old, or if consent is executed in court, which ever is later.

735 a. Such revocation shall be in writing, signed by the revoking party or counsel of record for the
736 revoking party and shall be filed with the clerk of the juvenile and domestic relations district court in
737 which the petition was filed during the business day of the juvenile and domestic relations district court,
738 within the time period specified in this section. If the revocation period expires on a Saturday, Sunday,
739 legal holiday or any day on which the clerk's office is closed as authorized by statute, the revocation
740 period shall be extended to the next day that is not a Saturday, Sunday, legal holiday or other day on
741 which the clerk's office is closed as authorized by statute.

742 b. Upon the filing of a valid revocation within the time period set out in this section, the juvenile
743 and domestic relations district court shall order that any consent given for the purpose of such placement

744 is void and, if necessary, the juvenile and domestic relations district court shall determine custody of the
745 child as between the birth parents.

746 2. By any party prior to the final order of adoption (i) upon proof of fraud or duress or (ii) after
747 placement of the child in an adoptive home, upon written, mutual consent of the birth parents and
748 prospective adoptive parents.

749 § 63.2-1235. Adoptive home not in child's best interests.

750 If the juvenile and domestic relations district court determines from the information provided to
751 it that placement in the prospective adoptive home will be contrary to the best interests of the child, it
752 shall so inform the birth parents. If the birth parents choose not to retain custody of the child nor to
753 designate other prospective adoptive parents, or if the birth parents' whereabouts are not reasonably
754 ascertainable, the juvenile and domestic relations district court shall determine custody of the child.

755 § 63.2-1236. Duty of Department to disseminate information.

756 The Department shall develop and disseminate information to the public regarding the provisions
757 of parental placement adoptions, including the desirability of initiating the procedures required by §
758 63.2-1232 as early in the placement and adoption process as possible to ensure that birth parents are
759 aware of the provisions of this law and begin required procedures in a timely manner.

760 § 63.2-1237. Petition for parental placement adoption; jurisdiction; contents.

761 Proceedings for the parental placement adoption of a minor child and for a change of name of
762 such child shall be instituted only by petition to the circuit court in the county or city in which the
763 petitioner resides or in the county or city where a birth parent has executed a consent pursuant to §63.2-
764 1233. Such petition may be filed by any ~~natural~~ person who resides in the Commonwealth or is the
765 adopting parent(s) of a child who was subject to consent proceeding held pursuant to §62.3-1233. The
766 petition shall ask for leave to adopt a minor child not legally ~~his~~ the petitioner's by birth and, if it is so
767 desired by the petitioner, also to change the name of such child. In the case of married persons, the
768 petition shall be the joint petition of the husband and wife but, in the event the child to be adopted is
769 legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition
770 for the purpose of indicating his or her consent to the prayer thereof only. The petition shall contain a

771 full disclosure of the circumstances under which the child came to live, and is living, in the home of the
772 petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if
773 any. In any case in which the petition seeks the entry of an adoption order without referral for
774 investigation, the petition shall be under oath.

775 The petition shall state that the findings required by § 63.2-1232 have been made and shall be
776 accompanied by appropriate documentation supporting such statement, to include copies of documents
777 executing consent and transferring custody of the child to the prospective adoptive parents, and a copy
778 of the report required by § 63.2-1231. The court shall not waive any of the requirements of this
779 paragraph nor any of the requirements of § 63.2-1232 except as allowed pursuant to §63.2-1233(4).

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

784 § 63.2-1238. Forwarding of petition; when investigation and report not required.

785 A. Upon the filing of the petition, the circuit court shall forward a copy of the petition and all
786 exhibits thereto to the Commissioner and to the local director where the petitioners reside or resided at
787 the time of filing the petition, or had legal residence at the time of the filing of the petition. However, in
788 cases where a licensed child-placing agency has completed a home study, the petition and all exhibits
789 shall be forwarded to the licensed child-placing agency.

790 B. In parental placement adoptions where consent has been properly executed, no investigation
791 and report pursuant to § 63.2-1208 is required. However, the circuit court may order a thorough
792 investigation of the matter and report in which case the provisions of § 63.2-1208 shall apply.

793 § 63.2-1239. Return of copies furnished to counsel.

794 Any copy of the report required by § 63.2-1208 to be furnished to counsel of record representing
795 the adopting parent or parents shall, upon the entry of a final order of adoption, or other final disposition
796 of the matter, be returned by such counsel, without having been duplicated, to the clerk of the circuit

797 court in which final disposition of the matter is had, to be disposed of as is required by § 63.2-1246 for
798 the return of the original report.

799 § 63.2-1240. Court issuing order deemed sending agency under Interstate Compact on Placement
800 of Children.

801 When a petitioner moves outside the Commonwealth after the entry of an interlocutory order of
802 adoption but prior to the entry of a final order of adoption and the child was not placed by a child-
803 placing agency, the circuit court issuing the interlocutory order shall be deemed the sending agency for
804 the purposes of the Interstate Compact on the Placement of Children authorized pursuant to the
805 provisions of § 63.2-1000.

806 § 63.2-1241. Adoption of child by new spouse of birth or adoptive parent.

807 A. When the spouse of a birth parent of a child born in wedlock or the spouse of a parent by
808 adoption of the child has died, and the surviving birth parent or parent by adoption marries again and the
809 new spouse desires to adopt the child, on a petition filed by the surviving birth parent or parent by
810 adoption and new spouse for the adoption and change of name of the child, the circuit court may
811 proceed to order the proposed adoption or change of name without referring the matter to the local
812 director.

813 B. When a birth parent of a legitimate infant or a parent by adoption is divorced and marries
814 again and the birth parent or parent by adoption desires the new spouse to adopt the child, on a petition
815 filed by the birth parent or parent by adoption and the new spouse for the adoption and change of name
816 of the child, or if the child is the result of surrogacy. ~~the~~The circuit court may proceed to order the
817 proposed adoption or change of name without referring the matter to the local director if the other birth
818 parent or parent by adoption consents in writing to the adoption or change of name or if the other birth
819 parent or parent by adoption is deceased.

820 C. When the custodial birth parent of a child born to parents who were not married to each other
821 at the time of the child's conception or birth marries and the new spouse of such custodial birth parent
822 desires to adopt such child, on a petition filed by the custodial birth parent and spouse for the adoption
823 and change of name of the child, the circuit court may proceed to order the proposed adoption and

824 change of name without referring the matter to the local director if (i) the noncustodial birth parent
825 consents, under oath, in writing to the adoption, or (ii) the mother swears, under oath, in writing, that the
826 identity of the father is not reasonably ascertainable, or (iii) the putative father named by the mother
827 denies paternity of the child, or (iv) the child is fourteen years of age or older and has lived in the home
828 of the person desiring to adopt the child for at least five years, or (v) the noncustodial birth parent is
829 deceased.

830 D. When a single person who has adopted a child thereafter marries and desires his spouse to
831 adopt the child, on a petition filed by the adoptive parent and the spouse for the adoption and change of
832 name of the child, the circuit court may proceed to order the proposed adoption or change of name
833 without referring the matter to the local director.

834 § 63.2-1242. Investigation and report at discretion of circuit court.

835 For adoptions under this article, an investigation and report shall be undertaken only if the circuit
836 court in its discretion determines that there should be an investigation before a final order of adoption is
837 entered. If the circuit court makes such a determination, it shall refer the matter to the local director for
838 an investigation and report to be completed within such time as the circuit court designates. If an
839 investigation is ordered, the circuit court shall forward a copy of the petition and all exhibits thereto to
840 the local director and the provisions of § 63.2-1208 shall apply.

841 § 63.2-1243. Adoption of certain persons eighteen years of age or over.

842 A petition may be filed in circuit court by any natural person who is a resident of this
843 Commonwealth (i) for the adoption of a stepchild eighteen years of age or over to whom he has stood in
844 loco parentis for a period of at least three months; (ii) for the adoption of a ~~niece or nephew~~ close
845 relative pursuant to the defention provided §63.2-1251, over eighteen years of age; ~~who has no living~~
846 ~~parents and who has lived in the home of the petitioner for at least three months~~; (iii) for the adoption of
847 any person eighteen years of age or over who is the birth child of the petitioner or who had resided in the
848 home of the petitioner for a period of at least three months prior to becoming eighteen years of age; or
849 (iv) for the adoption of any person eighteen years of age or older, for good cause shown, provided that
850 the person to be adopted is at least fifteen years younger than the petitioner and the petitioner and the

851 least ~~five~~ 1 years prior to the filing of the petition for adoption, ~~and provided further that both the~~
852 ~~petitioner and the person to be adopted have been residents of the Commonwealth for at least two years~~
853 ~~immediately prior to the filing of the petition.~~ Proceedings in any such case shall conform as near as
854 may be to proceedings for the adoption of a minor child under this chapter except that:

855 (a) No consent of either parent shall be required; and

856 (b) The consent of the person to be adopted shall be required in all cases.

857 Any interlocutory or final order issued in any case under this section shall have the same effect
858 as other orders issued under this chapter; and in any such case the word "child" in any other section of
859 this chapter shall be construed to refer to the person whose adoption is petitioned for under this section.
860 The entry of a final order of adoption pursuant to this section which incorporates a change of name shall
861 be deemed to meet the requirements of § 8.01-217.

862 The provisions of this section shall apply to any person who would have been eligible for
863 adoption hereunder prior to July 1, 1972.

864 § 63.2-1244. Investigation and report at discretion of circuit court; exception.

865 For adoptions under this article, an investigation and report shall not be made unless the circuit
866 court in its discretion so requires. However, if a petition is filed for the adoption of any person eighteen
867 years of age or older under clause (iv) of § 63.2-1243, the circuit court shall require an investigation and
868 report to be made. If an investigation is required, the circuit court shall forward a copy of the petition
869 and all exhibits to the local director and the provisions of § 63.2-1208 shall apply.

870 § 63.2-1245. Separate order book, file and index of adoption cases; to whom available;
871 permanent retention.

872 Each circuit court clerk shall establish and maintain a separate and exclusive order book, file and
873 index of adoption cases, none of which shall be exposed to public view but which shall be made
874 available by such clerk to attorneys of record, social service officials, court officials, and to such other
875 persons as the circuit court shall direct in specific cases by order of the circuit court entered in
876 accordance with § 63.2-1246.

877 Such records shall be retained permanently in original form or on microfilm. Such microfilm and
878 microphotographic process and equipment shall meet state archival standards and such microfilm shall
879 be available for examination to those persons listed above. The clerk shall further provide security
880 negative microfilm copies of such records for storage in the Archives and Records Division of The
881 Library of Virginia.

882 § 63.2-1246. Disposition of reports; disclosure of information as to identity of birth family.

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

894 No identifying information from such adoption file shall be disclosed, open to inspection or
895 made available to be copied except as provided in subsections A, B and E of § 63.2-1247 or upon
896 application of the adopted person, if eighteen years of age or over, to the Commissioner, who shall
897 designate the person or agency that made the investigation to attempt to locate and advise the birth
898 family of the application. The designated person or agency shall report the results of the attempt to
899 locate and advise the birth family to the Commissioner, including the relative effects that disclosure of
900 the identifying information may have on the adopted person, the adoptive parents, and the birth family.
901 The adopted person and the birth family may submit to the Commissioner, and the Commissioner shall
902 consider, written comments stating the anticipated effect that the disclosure of identifying information
903 may have upon any party. Upon a showing of good cause, the Commissioner shall disclose the

904 identifying information. If the Commissioner fails to designate a person or agency to attempt to locate
905 the birth family within thirty days of receipt of the application, or if the Commissioner denies disclosure
906 of the identifying information after receiving the designated person's or agency's report, the adopted
907 person may apply to the circuit court for an order to disclose such information. Such order shall be
908 entered only upon good cause shown after notice to and opportunity for hearing by the applicant for
909 such order and the person or agency that made the investigation. "Good cause" when used in this section
910 shall mean a showing of a compelling and necessitous need for the identifying information.

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

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

923 When consent of the birth parents is not obtainable, due to the death of the birth parents or
924 mental incapacity of the birth parents, the circuit court may release identifying information to the adult
925 adopted person. In making this decision, the circuit court shall consider the needs and concerns of the
926 adopted person and the birth family if such information is available, the actions the agency took to locate
927 the birth family, the information in the agency's report and the recommendation of the agency.

928 The Commissioner, person or agency may charge a reasonable fee to cover the costs of
929 processing requests for nonidentifying information.

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

935 § 63.2-1247. Disclosure to birth family; adoptive parents; medical, etc., information; exchange of
936 information; open records in parental placement adoptions.

937 A. Where the adoption is finalized on or after July 1, 1994, and the adopted person is twenty-one
938 years of age or over, the adopted person's birth parents and adult birth siblings may apply to the
939 Commissioner for the disclosure of identifying information from the adoption file. The Commissioner
940 shall designate the person or agency that made the investigation to attempt to locate and advise the
941 adopted person of the application. The designated person or agency shall report the results of the attempt
942 to locate and advise the adopted person to the Commissioner, including the relative effects that
943 disclosure of the identifying information may have on the adopted person, the adoptive parents, and the
944 birth family. The adopted person and the birth family may submit to the Commissioner, and the
945 Commissioner shall consider, written comments stating the anticipated effect that the disclosure of
946 identifying information may have upon any party. Upon a showing of good cause, the Commissioner
947 shall disclose the identifying information. If the Commissioner fails to designate a person or agency to
948 attempt to locate the adopted person within thirty days of receipt of the application, or if the
949 Commissioner denies disclosure of the identifying information after receiving the designated person's or
950 agency's report, the birth parents or adult birth siblings, whoever applied, may apply to the circuit court
951 for an order to disclose such information. Such order shall be entered only upon good cause shown after
952 notice to and opportunity for hearing by the applicant for such order and the person or agency that made
953 the investigation. "Good cause" when used in this section shall mean a showing of a compelling and
954 necessitous need for the identifying information.

955 A birth parent or adult birth sibling who is a resident of Virginia may apply for the court order
956 provided for herein to (i) the circuit court of the county or city where the birth parent or adult birth

957 sibling resides or (ii) the circuit court of the county or city where the central office of the Department is
958 located. A birth parent or adult birth sibling who is not a resident of Virginia shall apply for such a court
959 order to the circuit court of the county or city where the central office of the Department is located.

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

967 When consent of the adopted person is not obtainable, due to the death or mental incapacity of
968 the adopted person, the circuit court may release identifying information to the birth parents or adult
969 birth siblings. In making this decision, the circuit court shall consider the needs and concerns of the birth
970 parents or adult birth siblings and the adoptive family if such information is available, the actions the
971 agency took to locate the adopted person, the information in the agency's report and the recommendation
972 of the agency.

973 B. Where the adoption is finalized on or after July 1, 1994, and the adopted person is under
974 eighteen years of age, the adoptive parents or other legal custodian of the child may apply to the
975 Commissioner for the disclosure of identifying information about the birth family. The Commissioner
976 shall designate the person or agency that made the investigation to attempt to locate and advise the birth
977 family of the application. The designated person or agency shall report the results of the attempt to
978 locate and advise the birth family to the Commissioner, including the relative effects that disclosure of
979 the identifying information may have on the adopted person, the adoptive parents or other legal
980 custodian, and the birth family. The adoptive parents, legal custodian and birth family may submit to the
981 Commissioner, and the Commissioner shall consider, written comments stating the anticipated effect
982 that the disclosure of identifying information may have upon any party. Upon a showing of good cause,
983 the Commissioner shall disclose the identifying information. If the Commissioner fails to designate a

984 person or agency to attempt to locate the birth family within thirty days of receipt of the application, or
985 if the Commissioner denies disclosure of the identifying information after receiving the designated
986 person's or agency's report, the adoptive parents or legal custodian, whoever applied, may apply to the
987 circuit court for an order to disclose such information. Such order shall be entered only upon good cause
988 shown after notice to and opportunity for hearing by the applicant for such order and the person or
989 agency that made the investigation. "Good cause" when used in this section shall mean a showing of a
990 compelling and necessitous need for the identifying information.

991 An adoptive parent or legal custodian who is a resident of Virginia may apply for the court order
992 provided for herein to (i) the circuit court of the county or city where the adoptive parent or legal
993 custodian resides or (ii) the circuit court of the county or city where the central office of the Department
994 is located. An adoptive parent or legal custodian who is not a resident of Virginia shall apply for such a
995 court order to the circuit court of the county or city where the central office of the Department is located.

996 If the identity and whereabouts of the birth parents are known to the person or agency, the circuit
997 court may require the person or agency to advise the birth parents of the pendency of the application for
998 such order. In determining good cause for the disclosure of such information, the circuit court shall
999 consider the relative effects of such action upon the adopted person, the adoptive parents or legal
1000 custodian and the birth parents. The birth family may submit to the circuit court, and the circuit court
1001 shall consider, written comments stating the anticipated effect that the disclosure of identifying
1002 information may have upon any party.

1003 When consent of the birth family is not obtainable, due to the death of the birth parents or mental
1004 incapacity of the birth parents, the circuit court may release identifying information to the adoptive
1005 parents or legal custodian. In making this decision, the circuit court shall consider the needs and
1006 concerns of the adoptive parents or legal custodian and the birth family if such information is available,
1007 the actions the agency took to locate the birth family, the information in the agency's report and the
1008 recommendation of the agency.

1009 C. In any case where a physician or licensed mental health provider submits a written statement,
1010 in response to a request from the adult adoptee, adoptive parent, birth parent or adult birth siblings,

1011 indicating that it is critical that medical, psychological or genetic information be conveyed, and states
1012 clearly the reasons why this is necessary, the agency that made the investigation shall make an attempt
1013 to inform the adult adoptee, adoptive parents, birth parents or adult birth siblings, whichever is
1014 applicable, of the information. The Commissioner shall provide information from the adoption record to
1015 the searching agency if necessary to facilitate the search. Confidentiality of all parties shall be
1016 maintained by the agency.

1017 D. In cases where at least one of the adoptive parents and one of the birth parents agree in
1018 writing to allow the agency involved in the adoption to exchange nonidentifying information and
1019 pictures, the agency may exchange this information with such adoptive parents and birth parents when
1020 the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such
1021 agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the
1022 adult adoptee.

1023 E. In parental placement adoptions, where the consent to the adoption was executed on or after
1024 July 1, 1994, the entire adoption record shall be open to the adoptive parents, the adoptee who is
1025 eighteen years of age or older, and a birth parent who executed a written consent to the adoption.

1026 § 63.2-1248. Fees for home studies, investigations, visitations and reports.

1027 Notwithstanding the provisions of § 17.1-275, the circuit court with jurisdiction over any
1028 adoption matter, or the person, agency, or child-placing agency that attempts to locate the birth family
1029 pursuant to § 63.2-1246 or subsection B of § 63.2-1247, or that attempts to locate the adult adoptee
1030 pursuant to subsection A of § 63.2-1247, shall assess a fee against the petitioner, or applicant and, in the
1031 case of local departments, shall assess such fee in accordance with regulations and fee schedules
1032 established by the Board, for home studies, investigations, visits and reports provided by the appropriate
1033 local department, person, or agency pursuant to §§ 20-160, 63.2-1208, 63.2-1212, 63.2-1231, 63.2-1238
1034 or § 63.2-1246. The Board shall adopt regulations and fee schedules, which shall include (i) standards
1035 for determining the petitioner's or applicant's ability to pay and (ii) a scale of fees based on the
1036 petitioner's or applicant's income and family size and the actual cost of the services provided. The fee
1037 charged shall not exceed the actual cost of the service. The fee shall be paid to the appropriate local

1038 department, person, or agency and a receipt therefor shall be provided to the circuit court, or to the
1039 Commissioner if pursuant to § 63.2-1246 or § 63.2-1247, prior to the acceptance of parental consent,
1040 entry of any final order, or release of identifying information by the Commissioner, and no court shall
1041 accept parental consent or enter any final order and the Commissioner shall not release any identifying
1042 information until proof of payment of such fees has been received.

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