

**SUMMARY**

Hurdle #2

**The Putative Father Registry**  
(Creation in Virginia)**SUMMARY PARAGRAPH**

This language is designed to create a putative father registry in Virginia. It would require a man who has had sexual intercourse with a woman to register in order to protect his rights should the woman seek to put a child up for adoption that may have resulted from said activity. Any man who is a presumed, adjudicated or acknowledged father is exempt from registering. Registration entitles the putative father to notice of an adoption proceeding (or termination of paternal rights proceeding).

**Statutes Changed:****§ 16.1-277.01-Approval entrustment agreement.**

Change states that any putative father who does not register is declared unascertainable and he is not entitled to notice.

**§ 20-49.1-How parent and child relationship established.**

Change establishes four types of fathers: 1) acknowledged 2) adjudicated 3) presumed (sets out parameters) and putative (he must register with the registry).

**§ 63.2-1201-Filing for Adoption; venue, jurisdiction, and proceedings.**

Change creates an additional fifty dollar filing fee to file for adoption in order to fund registry.

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

Change establishes that consent must be executed by the birth mother and any putative father who has registered with the registry. Consent may be signed within three days.

**§ 63.2-1233-Consent to be executed Juvenile & Domestic Court.**

Sets out that consent is not needed if the putative father did not register in a timely fashion.

**§ 63.2-1233-Adoption of child by new spouse.**

Change sets out that consent is not needed from a putative father if he did not register with the registry.

**§§ 63.2-1249 through 63.2-1253-Establishment of the registry.**

These statutes lay out the procedures behind establishing the registry.

SENATE BILL NO. \_\_\_\_\_ HOUSE BILL NO. \_\_\_\_\_

1 Legend-

2 Underlined Amendments- Administrative changes suggested by members of the American  
3 Academy of Adoption Attorneys and PFR changes outside of §63.2-1200 et. seq.

4 Italicized Amendments-additional PFR changes with § 63.2-1200 et. seq.

5 Bracketed Language-Suggested removed language for PFR

6  
7 § 16.1-277.01. Approval of entrustment agreement.

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

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

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

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

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

22 B. Upon the filing of a petition for approval of an entrustment agreement pursuant to subsection  
23 A of § 16.1-241, the court shall appoint a guardian ad litem to represent the child in accordance with the  
24 provisions of § 16.1-266, and shall schedule the matter for a hearing to be held as follows: within forty-  
25 five days of the filing of a petition pursuant to subdivision A 1, A 2 or A 3 of this section, except where

26 an order of publication has been ordered by the court, in which case the hearing shall be held within  
27 seventy-five days of the filing of the petition. The court shall provide notice of the hearing and a copy of  
28 the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

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

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

31 3. The guardian ad litem for the child; and

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

33 child. No such notification shall be required, however, if the judge certifies on the record that the

34 identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the

35 identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided

36 there is no other evidence before the court which would refute such an affidavit. Failure to register with

37 the putative father registry pursuant to §63.2-1249 et. seq. during pregnancy or fifteen days after the

38 child's birth shall be sufficient evidence that the identity of the putative father is not reasonably

39 ascertainable. The hearing shall be held and an order may be entered, although a parent, guardian, legal

40 custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided

41 personal or substituted service was made on the person, or the court determines that such person cannot

42 be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the

43 person cannot be found or his post office address cannot be ascertained after reasonable effort. However,

44 when a petition seeks approval of a permanent entrustment agreement which provides for the

45 termination of all parental rights and responsibilities with respect to the child, a summons shall be

46 served upon the parent or parents and the other parties specified in § 16.1-263. The summons or notice

47 of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall

48 be made pursuant to § 16.1-264. The remaining parent's parental rights may be terminated even though

49 that parent has not entered into an entrustment agreement if the court finds, based upon clear and

50 convincing evidence, that it is in the best interest of the child and that (i) the identity of the parent is not

51 reasonably ascertainable; (ii) the identity and whereabouts of the parent are known or reasonably

52 ascertainable, and the parent is personally served with notice of the termination proceeding pursuant to §

53 8.01-296 or § 8.01-320; (iii) the whereabouts of the parent are not reasonably ascertainable and the  
54 parent is given notice of the termination proceedings by certified or registered mail to the last known  
55 address and such parent fails to object to the proceedings within twenty-one days of the mailing of such  
56 notice; or (iv) the whereabouts of the parent are not reasonably ascertainable and the parent is given  
57 notice of the termination proceedings through an order of publication pursuant to §§ 8.01-316 and 8.01-  
58 317, and such parent fails to object to the proceedings.

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

62 D. At the conclusion of the hearing, the court shall make a finding, based upon a preponderance  
63 of the evidence, whether approval of the entrustment agreement is in the best interest of the child.  
64 However, if the petition seeks approval of a permanent entrustment agreement which provides for the  
65 termination of all parental rights and responsibilities with respect to the child, the court shall make a  
66 finding, based upon clear and convincing evidence, whether termination of parental rights is in the best  
67 interest of the child. If the court makes either of these findings, the court may make any of the orders of  
68 disposition permitted in a case involving an abused or neglected child pursuant to § 16.1-278.2. Any  
69 such order transferring legal custody of the child shall be made in accordance with the provisions of  
70 subdivision A 5 of § 16.1-278.2 and shall be subject to the provisions of subsection D1 of this section.  
71 This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic  
72 alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent  
73 removal and that continued placement in the home would be contrary to the welfare of the child, if the  
74 order transfers legal custody of the child to a local board of social services.

75 The effect of the court's order approving a permanent entrustment agreement is to terminate an  
76 entrusting parent's residual parental rights. Any order terminating parental rights shall be accompanied  
77 by an order (i) continuing or granting custody to a local board of social services or to a licensed child-  
78 placing agency or (ii) granting custody or guardianship to a relative or other interested individual. Such  
79 an order continuing or granting custody to a local board of social services or to a licensed child-placing

80 agency shall indicate whether that board or agency shall have the authority to place the child for  
81 adoption and consent thereto. A final order terminating parental rights pursuant to this section renders  
82 the approved entrustment agreement irrevocable. Such order may be appealed in accordance with the  
83 provisions of § 16.1-296.

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

94 E. The local board or licensed child-placing agency to which authority is given to place the child  
95 for adoption and consent thereto after an order terminating parental rights is entered pursuant to this  
96 section shall file a written Adoption Progress Report with the juvenile court on the progress being made  
97 to place the child in an adoptive home. The report shall be filed with the court every six months from the  
98 date of the final order terminating parental rights until a final order of adoption is entered on behalf of  
99 the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is  
100 ordered and authority is given to the local board or licensed child-placing agency to place the child for  
101 adoption, the juvenile court shall schedule a date by which the board or agency shall file the first  
102 Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent  
103 by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with  
104 or without the request of a party.

§ 20-49.1. How parent and child relationship established.

A. The parent and child relationship between a child and a woman may be established prima facie by proof of her having given birth to the child, or as otherwise provided in this chapter.

B. The parent and child relationship between a child and a man may be established by:

1. Scientifically reliable genetic tests, including blood tests, which affirm at least a ninety-eight percent probability of paternity. Such genetic test results shall have the same legal effect as a judgment entered pursuant to § 20-49.8.

2. A voluntary written statement of the father and mother made under oath acknowledging paternity and confirming that prior to signing the acknowledgment, the parties were provided with a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences arising from a signed acknowledgment, including the right to rescind. The acknowledgement shall state that the child does not have a presumed father, or had a presumed father whose full name is stated, and does not have another acknowledged or adjudicated father. The acknowledgement may be rescinded by either party within sixty days from the date on which it was signed unless an administrative or judicial order relating to the child in an action to which the party seeking rescission was a party is entered prior to the rescission. A written statement shall have the same legal effect as a judgment entered pursuant to § 20-49.8 and shall be binding and conclusive unless, in a subsequent judicial proceeding, the person challenging the statement establishes that the statement resulted from fraud, duress or a material mistake of fact. In any subsequent proceeding in which a statement acknowledging paternity is subject to challenge, the legal responsibilities of any person signing it shall not be suspended during the pendency of the proceeding, except for good cause shown. Written acknowledgments of paternity made under oath by the father and mother prior to July 1, 1990, shall have the same legal effect as a judgment entered pursuant to § 20-49.8.

~~3. In the absence of such acknowledgment or if the probability of paternity is less than ninety-eight percent, such relationship may be established as otherwise provided in this chapter. An adjudication by a court of competent jurisdiction of the man's paternity.~~

4. A presumption of fatherhood may be established by a man if:

134 a) he and the mother of the child are married to each other and the child is born during the  
135 marriage;

136 b) he and the mother of the child were married to each other and the child is born within three  
137 hundred days after the marriage is terminated by death, annulment, declaration of invalidity,  
138 divorce, or after a decree of separation;

139 c) before the birth of the child, he and the mother of the child married each other in apparent  
140 compliance with the law, even if the attempted marriage is or could be declared invalid, and  
141 and the child is born during the invalid marriage or within three hundred days after its  
142 termination by death, annulment, declaration of invalidity, divorce, or after a decree of  
143 separation;

144 d) after the birth of the child, he and the birth mother married each other in apparent  
145 compliance with the law, whether or not the marriage is or could be declared invalid, and he  
146 voluntarily asserted his paternity of the child, and:

147 (i) the assertion is in a record filed with the State Registrar;

148 (ii) he agreed to be and is named as the child's father on the child's birth certificate; or

149 (iii) he promised in a record to support the child as his own

150 B. Such presumption may rebutted by sufficient evidence which would establish by a  
151 preponderance the paternity of another man or the impossibility of cohabitation with the birth mother for  
152 a period of at least three hundred days prior to the birth of the child.

153 C. The parent and child relationship between a child and an adoptive parent may be established  
154 by proof of lawful adoption.

155  
156 § 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.

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

may be filed by any natural person who resides in the Commonwealth, ~~or who has custody of a child placed by a child-placing agency of the Commonwealth,~~ any duly licensed child-placing agency whether located within or without the Commonwealth, or an adopting parent of a child who was subject to a consent proceeding held pursuant to § 63.2-1233. ~~for~~ The petition shall ask leave to adopt a minor child not legally ~~his~~ the petitioner's by birth and, if it is so desired by the petitioner, also to change the name of such child. In the case of married persons, the petition shall be the joint petition of the husband and wife but, in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating consent to the prayer thereof only. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath.

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

*The petition for adoption shall include an additional fifty dollar filing fee which shall be used to fund the putative father registry established in Article 7 of the Chapter.*

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

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



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

191 C. Consent shall be executed:

192 1. *By the birth mother and;* {By the parents or surviving parent of a child born in wedlock. A  
193 child born to a married birth mother shall be presumed to be the child of her husband and his consent  
194 shall be required. This presumption may be rebutted by sufficient evidence, satisfactory to the circuit  
195 court, which would establish by a preponderance of the evidence the paternity of another man, or the  
196 impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least  
197 300 days preceding the birth of the child, in such case his consent shall not be required.- If the circuit  
198 court is satisfied that the presumption has been rebutted, notice of the adoption shall not be required to  
199 be given to the presumptive father.-If If the parents are divorced and the residual parental rights and  
200 responsibilities as defined in § 16.1-228 of one parent have been terminated by terms of the divorce, or  
201 other order of a court having jurisdiction, the petition may be granted without the consent of such parent;  
202 or }

203 2. *Any man who:*

- 204 a. *is a presumed to be the father of the child under § 20-49.1 (4); or*  
205 b. *is an acknowledged father under § 20-49.1 (2); or*  
206 c. *is an adjudicated father under § 20-49.1 (3); or*  
207 d. *has filed with the putative father registry during pregnancy or within fifteen days after the*  
208 *birth of the child pursuant to Article 7 of the Chapter.*

209 {By the parents or surviving parent of a child born to parents who were not married to each other  
210 at the time of the child's conception or birth. The consent of the birth father of a child born to parents  
211 who were not married to each other at the time of the child's conception or birth shall not be required (i)  
212 if the identity of the birth father is not reasonably ascertainable or (ii) if the identity of such birth father  
213 is ascertainable and his whereabouts are known, such birth father is given notice of the adoptive  
214 placement or adoption proceeding, including the date and location of the hearing, if a hearing has been

~~byscheduled, by registered or certified regular United States mail to his last known address, and such~~  
~~birth father fails to object to the adoption proceeding within 21 10 days of the mailing of such notice.~~  
~~Such e~~Objection to the adoption shall be in writing, signed by the objecting party or counsel of record  
for the objecting party and shall be filed with the clerk of the circuit court in which the petition was filed  
~~during the business day of the court, within the time period specified in this section. No additional~~  
~~hearing is required when such written notice is given to the birth father. If a hearing is scheduled,~~  
~~F~~failure of the objecting party to appear at the ~~consent~~ hearing, either in person or by counsel, shall  
constitute a waiver of such objection; or}

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

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

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

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

~~E~~F. When a child has been placed by the birth parent(s) with the prospective adoptive parent(s)  
who is the child's grandparent, great grandparent, adult brother or sister, adult uncle or aunt, or adult  
great uncle or great aunt, the circuit court may accept the written and signed consent of the birth  
parent(s) that has been acknowledged by an officer authorized by law to take such acknowledgments. If

the child has resided in the home of the prospective adoptive parents for less than 3 continuous years, the provisions of Article 3 (§ 63.2-1230 et. seq.) shall apply

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

H. Consent may be signed within 3 days before a notary on a consent form developed by the Department.

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

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

1. a. The execution of consent before the juvenile and domestic relations district court shall not be required of a birth father who is not married to the mother of the child at the time of the child's conception or birth if (i) the birth father consents under oath and in writing to the adoption; (ii) the birth mother swears under oath and in writing that the identity of the birth father is not reasonably

ascertainable; (iii) the identity of the birth father is ascertainable and his whereabouts are known, he is given notice of the proceedings by registered or certified mail to his last known address and he fails to object to the proceeding within 21 days of the mailing of such notice; (iv) *is not a putative father who has registered with the putative father registry pursuant to Article 7 of this Chapter during the pregnancy or fifteen days after the child's birth; (v) executes a notarized denial of paternity with consent to adoption.* Such objection shall be in writing, signed by the objecting party or counsel of record for the objecting party and shall be filed with the clerk of the juvenile and domestic relations district court in which the petition was filed during the business day of the court, within the time period specified in this section. Failure of the objecting party to appear at the consent hearing, either in person or by counsel, shall constitute a waiver of such objection. or (iv) the putative birth father named by the birth mother denies under oath and in writing paternity of the child. An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the juvenile and domestic relations district court that would refute such an affidavit. The absence of such an affidavit shall not be deemed evidence that the identity of the birth father is reasonably ascertainable. For purposes of determining whether the identity of the birth father is reasonably ascertainable, the standard of what is reasonable under the circumstances shall control, taking into account the relative interests of the child, the birth mother and the birth father.

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

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

297 d. A child born to a married birth mother shall be presumed to be the child of her husband and  
298 his consent shall be required. The consent requirement may be waived if the court determines that  
299 husband of the birth mother is withholding consent contrary to the best interest of the child or if his  
300 consent is unobtainable, provided that he is given notice of the proceeding by service of a summons.  
301 The consent of such husband may be executed in court or under oath and in writing. This presumption  
302 may be rebutted by sufficient evidence, satisfactory to the juvenile and domestic relations district court,  
303 which would establish by a preponderance of the evidence the paternity of another man or the  
304 impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least  
305 300 days preceding the birth of the child, in which case the husband's consent shall not be required.

306 2. A birth parent whose consent is required as set forth in § 63.2-1202, whose identity is known  
307 and who neither consents before the juvenile and domestic relations district court as described above,  
308 nor executes a written consent to the adoption or a denial of paternity out of court as provided above,  
309 shall be given notice, including the date and location of the hearing, of the proceedings pending before  
310 the juvenile and domestic relations district court and be given the opportunity to appear before the  
311 juvenile and domestic relations district court. Such hearing may occur subsequent to the proceeding  
312 wherein the consenting birth parent appeared but may not be held until 21 days after personal service of  
313 notice on the ~~nonconsenting~~non-consenting birth parent, or if personal service is unobtainable, 10 days  
314 after the completion of the execution of an order of publication against such birth parent. The juvenile  
315 and domestic relations district court may appoint counsel for the birth parent(s). If the juvenile and  
316 domestic relations district court finds that consent is withheld contrary to the best interests of the child,  
317 as set forth in § 63.2-1205, or is unobtainable, it may grant the petition without such consent and enter  
318 an order waiving the requirement of consent of the ~~nonconsenting~~non-consenting birth parent and  
319 transferring custody of the child to the prospective adoptive parents, which order shall become effective  
320 ~~15 days thereafter~~immediately. If the juvenile and domestic relations district court denies the petition,

the juvenile and domestic relations district court shall order that any consent given for the purpose of such placement shall be void and, if necessary, the court shall determine custody of the child as between the birth parents.

3. Except as provided in subdivision 4, if consent cannot be obtained from at least one birth parent, the juvenile and domestic relations district court shall deny the petition and determine custody of the child pursuant to § 16.1-278.2. Under this subdivision, the court shall waive the requirement of the simultaneous meeting under §62.3-1231 and the requirements of §63.2-1232(A) (1), (3) and (7) where the opportunity for compliance is not reasonably available under the applicable circumstances.

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

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

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

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

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

354 7. No consent shall be required from the birth father of a child placed pursuant to this section  
355 when such father is convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of §  
356 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, and the  
357 child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of  
358 the proceedings under this section.

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

361  
362 § 63.2-1241. Adoption of child by new spouse of birth or adoptive parent.

363 A. When the spouse of a birth parent of a child born in wedlock or the spouse of a parent by  
364 adoption of the child has died, and the surviving birth parent or parent by adoption marries again and the  
365 new spouse desires to adopt the child, on a petition filed by the surviving birth parent or parent by  
366 adoption and new spouse for the adoption and change of name of the child, the circuit court may  
367 proceed to order the proposed adoption or change of name without referring the matter to the local  
368 director.

369 B. When a birth parent of a legitimate infant or a parent by adoption is divorced and marries  
370 again and the birth parent or parent by adoption desires the new spouse to adopt the child, on a petition  
371 filed by the birth parent or parent by adoption and the new spouse for the adoption and change of name  
372 of the child, the circuit court may proceed to order the proposed adoption or change of name without  
373 referring the matter to the local director if the other birth parent or parent by adoption consents in  
374 writing to the adoption or change of name or if the other birth parent or parent by adoption is deceased.

C. When the custodial birth parent of a child born to parents who were not married to each other at the time of the child's conception or birth marries and the new spouse of such custodial birth parent desires to adopt such child, on a petition filed by the custodial birth parent and spouse for the adoption and change of name of the child, the circuit court may proceed to order the proposed adoption and change of name without referring the matter to the local director if (i) the non-custodial birth parent consents, under oath, in writing to the adoption, or (ii) the mother swears, under oath, in writing, that the identity of the father is not reasonably ascertainable, or (iii) the putative father named by the mother denies paternity of the child, or (iv) the child is fourteen years of age or older and has lived in the home of the person desiring to adopt the child for at least five years, or (v) the non-custodial birth parent is deceased, or (vi) *the non-custodial birth father executes a notarized denial of paternity with consent to adoption, or (vii) the non-custodial birth father:*

*a. is not an acknowledged father pursuant § 20-49.1; and*

*b. is not an adjudicated father pursuant to § 20-49.1; and*

*c. is not a presumed father pursuant to § 20-49.1; and*

*d. is not putative father who has registered with the putative father registry within fifteen days of the child's birth or prior to the filing of an adoption petition, whichever is later, pursuant to Article 7 of this chapter.*

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



## ARTICLE 7

## PUTATIVE FATHER REGISTRY

*§ 63.2-1249. Establishment of Registry.*

*A putative father registry is established in the Department of Social Services which shall be funded by moneys collected under § 63.2-1201. Upon appropriation, moneys in the fund shall be used solely for the administration of the putative father registry. notwithstanding any provisions to the contrary, moneys in the fund shall not revert to the credit of general revenue at the end of the biennium, but shall be used upon appropriations by the general assembly for the purpose of carrying out the provisions of this chapter.*

*§ 63.2-1250. Registration. Notice. Form.*

*1. A. Except as otherwise provided in subsection (B), a man who desires to be notified of proceeding for adoption of, or termination of parental rights regarding, a child that he may have fathered must register in the putative father registry before the birth of the child or fifteen days after the birth.*

*B. A man is not required to register if:*

*(a) a father-child relationship between the man and the child has been established pursuant to §20-49.1.*

*(b) the man commences a proceeding to adjudicate his paternity before a petition for adoption or a petition for the termination of his parental rights is filed with the court.*

*(c) A registrant shall promptly notify the registry of any change in the information registered, including but not limited to change of address. The Department shall incorporate all new information received into its records but need not seek to obtain current information for incorporation in the registry.*

427       2. *Notice of a proceeding for the adoption of, or termination of parental rights regarding, a*  
428 *child must be given to a registrant who has timely registered pursuant to subsection 1. Notice must be*  
429 *given in a manner prescribed for service of process in a civil action.*

430       3. *The Department shall prepare a form for registering with the agency. The form must require*  
431 *the signature of the registrant. The form must state that the form is signed under penalty of perjury.*  
432 *The form must also state that:*

433       *A. a timely registration entitles the registrant to notice of a proceeding for adoption of the child*  
434 *or termination of the registrant's parental rights;*

435       *B. a timely registration does not commence a proceeding to establish paternity;*

436       *C. the information disclosed on the form may be used against the registrant to establish*  
437 *paternity;*

438       *D. services to assist in establishing paternity are available to the registrant through the*  
439 *Department;*

440       *E. the registrant should also register in another state if conception or birth of the child occurred*  
441 *in the other state;*

442       *F. information on registries of other states is available from the Department; and*

443       *G. procedures exist to rescind the registration of a claim of paternity.*

444       4. *A. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal*  
445 *notice that as a result a child may be conceived and the man is entitled to all legal rights and*  
446 *obligations resulting therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely*  
447 *file pursuant to Subsection 1.*

448       *B. Failure to file pursuant to Subsection 1 shall waive all rights of a man who is not*  
449 *acknowledged, presumed, or adjudicated father pursuant to § 20-49.1 to withhold consent to an*  
450 *adoption proceeding unless:*

451       *(i) the person was lead to believe through the birth mother's fraud that:*

452       *(a) the pregnancy was terminated or the mother miscarried when in fact the baby was born; or*

453       *(b) after the birth, the child died when in fact the child is alive; and*

(ii) the person upon the discovery of the fraud satisfied the requirements of Subsection 1 within fifteen days of the discovery.

**§ 62.3-1251. Furnishing Information. Confidentiality.**

1. The Department need not seek to locate the mother of a child who is the subject of a registration, but the Department shall send a copy of the notice of registration to the mother if she provided an address.

2. Information contained in the registry is confidential and may only be released on request to:

- A. a court or a person designated by the court;
- B. the mother of the child who is the subject of the registration;
- C. an agency authorized by other law to receive information;
- D. a licensed child-placing agency;
- E. a support enforcement agency;
- F. a party or the party's attorney of record in an adoption proceeding or in a proceeding of termination of parental rights regarding, a child who is the subject of the registration; and
- G. the putative father registry in another state.

3. An individual who intentionally releases information from the registry to another individual or agency not authorized to receive the information under Subsection 2 is guilty of a class 4 misdemeanor.

**§63.2-1252. Search of Registry.**

1. If no father-child relationship has been established pursuant to § 20-49.1, any petitioner for adoption must obtain a certificate that a search of the putative father registry was performed. If the conception or birth of the child occurred in another state, then a petitioner for adoption must obtain a search certificate from that state that a search of the putative father registry was performed if that state has a putative father registry.

2. A. The Department shall furnish to the requester a certificate of search of the registry on the request of an individual, court or agency listed in Subsection 2 of § 62.3-1250.

B. Any such certificate must be signed on behalf of the Department and state that:

(i) a search has been made of the registry;

(ii) a registration containing the information required to identify the registrant:

(a) has been found and is attached to the certificate of search; or

(b) has not been found.

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

D. A certificate of search of the putative father registry is admissible in a proceeding for adoption of, or termination of parental rights regarding, a child and, if relevant, in other legal proceedings.

§63.2-1253. **Publication.**

*The Department Shall:*

1. Produce and distribute a pamphlet or publication informing the public about the putative father registry, including the procedures for voluntary acknowledgement of paternity, the consequences of acknowledgement and failure to acknowledge paternity pursuant to § 20-49.1, a copy of a statement informing the public about the putative father registry, including to whom and under what circumstances it applies, the time limits and responsibilities for filing, protection of paternal rights associated responsibilities, and other provisions of this section, and a detachable form meeting the requirements of § 63.2-1249 (3) addressed to the putative father registry. Such pamphlet or publication shall be made available for distribution at all offices of the Department of Health and Senior Services. The Department shall also provide such pamphlets or publications to the Department, hospitals, libraries, medical clinics, schools, universities, and other providers of child-related services upon request;

506           2. *Provide information to the public at large by way of general public service announcements,*  
507 *or other ways to deliver information to the public about the putative father registry and its services. A*  
508 *statement about the Department shall be contained in any pamphlet or publication informing the public*  
509 *about the putative father registry.*

510