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The following forms are available as Word documents at
<http://localagency.dss.virginia.gov/divisions/dfs/ap/forms.cgi>.

- Adoptive Home Placement Agreement
- Adoption Assistance Agreement
- Consent Form
- Commissioner's Confidential Report
- Application for Adoption Assistance
- Report of Investigation
- Agency Approved Provider Compliance Checklist
- CPS Release of Information
- Criminal History Record Request

- Adoptee Application for Disclosure
- **Post-Adoption Contact and Communication Agreement**
- **Post-Adoption Contact and Communication Fact Sheet**
- **Post-Adoption Contact and Communication Benefits and Limitations**
- Virginia Putative Father Registry Registration Form
- Virginia Putative Father Registry Request to Search Form

Notations Regarding Manual Format

Federal laws will be indicated with a box with double lines as seen below.



State laws will be indicated in this manual in a box with one line around it as seen as below.



The Virginia Administrative Code will be indicated in this manual in a shaded box as seen below.



OASIS instructions will be indicated in a hashed box as seen below.



State laws, federal laws, and anything in the Virginia Administrative Code are mandated. Everything else is procedural, guidance, or recommended best practice.

All new guidance is noted in bold print.

SECTION I PURPOSE AND AUTHORITY

The provision of adoption services is guided by federal and state law and regulations. Laws and regulations define how services are to be provided and who is responsible for providing them. The local departments of social services and licensed child-placing agencies are responsible for providing adoption services. The responsibility for providing adoption services to children in foster care is placed with the Local Boards of Social Services by Chapters 9, 12, 13, and 14 of Title 63.2 of the *Code of Virginia* and regulations promulgated by the State Board of Social Services.

[Section 63.2-319](#), *Code of Virginia*, requires each local board to provide child welfare services. The definition of “child welfare services” includes:

Placing children in suitable adoptive homes in cases where restoration to the biological family is not possible or appropriate.

[Section 63.2-1200](#), *Code of Virginia*, A child may be placed for adoption by: a licensed child-placing agency; local board; the child’s parent or legal guardian if the placement is a parental placement; and any agency outside of the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates.

[Section 63.2-1221](#), *Code of Virginia*, provides that a licensed child-placing agency or local board may place for adoption, and is empowered to consent to the adoption of any child who is properly committed or entrusted to its care...when the order of commitment or the entrustment agreement...provides for the termination of all parental rights and responsibilities....

[Section 63.2-100](#), *Code of Virginia*, defines adoptive home and adoptive placement:

“Adoptive home” means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption.”

“Adoptive placement” means arranging for the care of a child who is in the custody of a child-placing agency in an approved home for the purpose of adoption.”

The [Virginia Administrative Code \(22 VAC 40-260\)](#) provides a definition of adoption. “Adoption” means a legal process in which a person’s rights and duties toward birth parents are terminated and similar rights and duties are established with a new family”.

In addition to State codes, adoption services are also governed by federal laws and regulations.

Title IV-B of the Social Security Act governs Child Welfare Services and Promoting Safe and Stable Families (formerly known as Family Preservation and Support Services).

Title IV-B, Subpart 1, Child welfare services, section 422. (a) of the Social Security Act. In order to be eligible for payment under this subpart, a state must have a plan for child welfare services which has been developed jointly by the secretary and the state agency....Each plan for child welfare services under this subpart shall.....

(9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed....and

(12) contain assurances that the state shall develop plans for the effective use of cross-jurisdictional resources to facilitate timely adoptive or permanent placements for waiting children.

Title IV-B, Subpart 2–Promoting Safe and Stable Families, section 432

(a) Plan Requirements.–A state plan meets the requirements of this subsection if the plan---contains assurancesthat ...expenditures shall be for programs of family preservation services, community-based family support services, time-limited family reunification services, and adoption promotion and support services....

Title IV-E of the Social Security Act governs the provision of foster care and adoption services for states receiving federal money to fund these programs.

Title IV-E, Section 473(a)(1)(A) of the Social Security Act. Each state having a plan approved under this part shall enter into adoption assistance agreements with the adoptive parents of children with special needs----

SECTION 2 GUIDING PRINCIPLES

The goal of adoption is the third ranking permanency planning goal (See Volume VII, Section III, Chapter B, Foster Care). The purpose of adoption services is to help children who have been permanently and legally separated from their birth parents become permanent members of a new family. **While it is the third goal in Virginia, adoption is recognized as offering the most legal permanence if reunification is not achieved.**

2.A Guiding Principles.

To achieve permanency for children through adoption, the agency shall provide services that are based on the best interest of the child and adhere to the following principles:

- 2.A.1 Legal adoption offers a child greater permanence and security than foster care;
- 2.A.2 Every child who cannot be returned home is adoptable, regardless of disabilities, age, race or other special needs;
- 2.A.3 The child is the client and services shall be focused on finding families for children, rather than on finding children for families;
- 2.A.4 Continuity of nurturing relationships is critical to a child's growth and development. Therefore, adoptive planning shall reflect the child's need to be in a permanent placement as soon as possible; shall recognize the importance of placing siblings in the same adoptive home; and shall consider foster parents with whom the child has developed emotional ties as a primary adoptive resource for the child.
- 2.A.5 Adoptive planning is not limited to children for whom adoptive families are readily available, but is provided for all children through adequate, effective recruitment efforts;
- 2.A.6 Adoption does not necessarily require complete severance of contacts with birth relatives, foster parents, or other people with whom the child has a significant relationship;
- 2.A.7 Adoption Assistance helps achieve the permanency of adoption for children who might otherwise remain in long term foster care;

2.A.8 In assessing prospective adoptive families, the most important criterion is the family's ability to parent a child not born to them. Marital status, income level, education, age, health, and other factors are to be considered only in terms of their relationship to the applicant's ability to parent an adopted child;

2.A.9 Beyond its legal definition, adoption is a life long process, therefore, services which meet the unique needs of adoptive families should be provided before and after finalization of the adoption;

2.A.10 The number of children in a family is not a determining factor in approving a family for adoption or in considering an approved family for placement; rather, casework practice and service provision shall be focused on assessing the parent's ability to meet the needs of the specific child as well as the needs of the whole family unit;

2.A.11 Adult adoptees have the right to full disclosure of information from their records, except that which would reveal the identity of their family of origin;

2.A.12 Prior to placement, adoptive parent(s) have the right to full factual information about the child and the child's birth family, except that which would reveal the identity of the child's family of origin.

2.B. An excerpt from the Virginia Children's Services Practice Model provides guiding principals to include:

We believe that all children and youth need and deserve a permanent family.

1. Lifelong family connections are crucial for children and adults. It is our responsibility to promote and preserve kinship, sibling and community connections for each child. We value past, present, and future relationships that consider the child's hopes and wishes.

2. Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care or guardianship. Placement stability is not permanency.

3. Planning for children is focused on the goal of preserving their

family, reunifying their family, or achieving permanency with another family.

4. Permanency planning for children begins at the first contact with the children's services system. We proceed with a sense of urgency until permanency is achieved. We support families after permanency to ensure that family connections are stable.

2.C There are two additional guiding principles that are governed by federal laws:

Title IV-E, Section 471(a) (18) of the Social Security Act provides that... neither the state nor any other entity in the state that receives funds from the Federal Government and is involved in adoption may:

- (A) deny to any person the opportunity to become an adoptive parent on the basis of race, color, or national origin of the person or of the child involved; or
- (B) delay or deny placement of a child for adoption on the basis of race, color, or national origin of the adoptive parent or the child involved.

Title IV-E, Section 471(a) (23) of the Social Security Act provides that a state shall not be eligible for any payments under this section if the state has:

- (A) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or
- (B) failed to grant an opportunity for a fair hearing to an individual whose allegation of a violation of (A) is denied by the state or not acted upon by the state with reasonable promptness.

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SECTION 3 PRE-PLACEMENT SERVICES

The **usual** first goal for a child in foster care is to return to the birth parent(s) or prior custodian(s). When it has been determined that the child cannot be returned home or to the prior custodians, the second goal is to place the child with and transfer custody to relatives. **When** adoption becomes the goal for the child **the** parental rights must be terminated.

If the goal of adoption is being selected, the two higher-ranking goals must have been fully explored and ruled out, consistent with the child's best interest. Services must be provided to the child, the birth parent(s), foster parents and adoptive parents. The Foster Care Service Plan identifies services that must be provided. Refer to Volume VII, Section III, Chapter B, Foster Care, for information on the Foster Care Service Plan.

[Section 16.1-281.B](#), *Code of Virginia*, provides that the foster care plan shall be designed to lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. However, if the department, child welfare agency or team determines that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interest of the child, in a separate section of the plan the department, child welfare agency or team shall (i) include a full description of the reasons for this conclusion (ii) determine the opportunities for placing the child with a relative or in an adoptive home.

OASIS: Until the child is placed in the adoptive home with a signed adoptive home agreement, the child's case type is based on his/her foster care status and all data is entered into the child's foster care record.

3.A. Termination of Parental Rights

Federal and state laws require a petition to terminate parental rights at the child's 14 month permanency planning hearing unless compelling reasons are documented for not terminating parental rights. Timely permanency is best served when a petition is filed to terminate parental rights simultaneously with the petition for the initial permanency planning hearing when a petition for termination of parental rights has not already been filed by the time of the initial permanency planning hearing. Agencies are required to petition for termination of parental rights if a child has been in care for any 15 of the last 22 consecutive months. Agencies are not required to petition for termination of parental rights under the following compelling reasons:

- The agency documents and provides compelling reason why it is not in the best interest of the child to terminate parental rights;
- The child resides with relatives and the relatives do not want to adopt the child; or
- Services have not been provided to the parent to return the child home safely.

Title IV-E, Section 475 (5) (C) and (E) of the Social Security Act. Each child has a case plan designed to achieve placement in a safe setting. Procedural safeguards will ensure that each child in foster care under State supervision will have permanency hearings 12 months after the child enters foster care and not less frequently than every 12 months thereafter...which hearing will determine the permanency plan for the child that includes whether the child will return home, or be placed for adoption and the State will file a petition for termination of parental rights. In the case of a child in foster for 15 of the most recent 22 months...the State shall petition for termination of parental rights.

A petition for termination of parental rights may be filed sooner than the above mandated time frames if grounds for termination exist (see 3.A.10.1).

When adoption is the best plan for a child in foster care, securing legal authority to place the child for adoption is the initial objective toward achieving the goal. A child can be placed for adoption once parental rights are terminated and the agency has been granted the authority to place for adoption. The termination process begins with knowing whose rights must be terminated and how they are terminated. These points are outlined below:

3.A.1 All individuals whose rights must be terminated:

3.A.1.1 The mother,

3.A.1.2 Any man who is:

- an acknowledged father;

An acknowledged father is a man with a relationship with a child established by:

A voluntary written statement between the man and the mother of the child made under oath agreeing to the paternity and confirming that prior to signing the acknowledgement, that the parties were provided with a written and oral description of the rights and

responsibilities of acknowledging paternity and the consequences arising from the signed acknowledgement. The acknowledgement may be rescinded by either party within 60 days from the date it was signed, after which time the acknowledgement shall have the same legal effect as a judgment. (Section 20-49.1, *Code of Virginia*)

- an adjudicated father;

An adjudicated father is a man with a judgment or order from a court establishing paternity of a child. (Section 20-49.8, *Code of Virginia*)

- a presumed father; and/or

A Presumed Father is the man who:

- 1) is married to the mother and the child is born during the marriage; (Section 63.2-1202.D.1, *Code of Virginia*)

Or

- 2) was married to the mother and the child was born within 300 days from the date of their separation as evidenced by a written agreement, or decree of separation, or within 300 days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce; (Section 63.2-1202.D.2, *Code of Virginia*)

Or

- 3) before the birth of the child, he and the mother of the child, married each other in apparent compliance with the law, even if the attempted marriage is, or

4) could be declared invalid, and a child was born within 300 days of their separation, as evidenced by a written agreement, or decree of separation, or within 300 days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce. (Section 63.2-1202.D.3, *Code of Virginia*)

- a registered putative father.

A Registered Putative Father is a man that has completed a registration for the Virginia Putative Father Registry and mailed the registration to the Virginia Department of Social Services and the registration has been entered into The Virginia Putative Father Registry database.

A birth father may be any of the types of fathers listed in 3.A.1.2.

Agencies should always make a diligent effort to identify and locate the mother and father of a child. Critical medical and genetic information should be gathered on each parent and on each parent's nuclear family to be maintained for the child's benefit.

3.A.2 How Parental Rights are Terminated

Parental rights can be terminated either voluntarily or involuntarily.

3.A.2.1 Voluntary Methods of Termination

Parents may voluntarily terminate their rights either by signing a permanent entrustment agreement or by petitioning the court to be relieved of their rights. (Section 63.2-900, Section 63.2-903, and Section 16.1-278.3, *Code of Virginia*)

3.A.2.2 Permanent entrustment agreement (032-02-0024-03-eng): How it is used

A permanent entrustment agreement is a binding agreement between the parent(s) and the local board or agency. This agreement provides a method for the parent(s) to voluntarily

relinquish parental rights and gives the agency authority to place for adoption.

A birth parent who is under 18 years of age has the legal capacity to execute a valid permanent entrustment agreement and to perform all acts related to adoption.

When an agency has a permanent entrustment agreement signed by the birth mother, the birth father, and, if appropriate, the presumed father, the child is legally free for adoption after the expiration of the revocation period.

3.A.2.3 Who must sign a permanent entrustment agreement

3.A.2.3.1 The birth mother; and

3.A.2.3.2 Any man who is:

3.A.2.3.2.1 an acknowledged father;

3.A.2.3.2.2 an adjudicated father;

3.A.2.3.2.3 a presumed father; and/or

3.A.2.3.2.4 a registered putative father.

3.A.2.3.3 Use a separate form for each parent who entrusts and for each child to be entrusted. (See VDSS Local agency site at:

<http://www.localagency.dss.state.va.us/divisions/dfs/fc/forms.cgi>)

3.A.3 Who receives notice and how notice of a permanent entrustment is given

3.A.3.1 A father listed in 3.A.1.2 above is required to be given notice. If the putative father's identity is known he must be given notice to register with the Virginia Putative Father Registry by mailing a notice to his last known address. The putative father that is known will have 10 days from the date of the mailing of the notice to register with The Virginia Putative Father Registry.

- 3.A.3.2 The birth father may be given notice by registered or certified mail to his last known address.
- 3.A.4 When a permanent entrustment agreement is not required
 - 3.A.4.1 If a birth father fails to object to the entrustment within 15 days of the mailing of the notice, his entrustment is not required.
 - 3.A.4.2 An entrustment by the presumed father is not required:
 - 3.A.4.2.1 if he denies paternity under oath and in writing;
 - 3.A.4.2.2 when the presumption is rebutted by sufficient evidence, satisfactory to the court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child;
 - 3.A.4.2.3 if another man admits, in writing and under oath, that he is the biological father; or
 - 3.A.4.2.4 if an adoptive placement has been determined by the court to be in the best interest of the child and the consent is being withheld contrary to the best interest of the child or is unobtainable according to Section 63.2-1205, *Code of Virginia*; or
 - 3.A.4.2.5 if identity of the birth father is not reasonably ascertainable. The identity of the birth father is considered reasonably ascertainable if the birth father has registered with the Virginia Putative Father Register. Please refer to section 11 for additional information on the Virginia Putative Father Registry.

3.A.4.3 When the birth father denies under oath and in writing the paternity of the child.

3.A.4.3.1 This denial of paternity may be withdrawn no more than 10 days after it is executed,

3.A.4.3.2 However, once the child is 10 days old, any executed denial is final and constitutes a waiver of all rights of the birth father.

3.A.4.4 When the birth father has been 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.

3.A.5 When a permanent entrustment agreement can be revoked

3.A.5.1. An entrustment agreement may be revoked by either parent until the child has reached the age of 10 days and seven days have elapsed from the date of execution of the agreement.

3.A.5.2 The entrustment agreement can be revoked if the child has not been placed in the physical custody of the prospective adoptive parents at the time of revocation.

3.A.5.3 The revocation must be in writing and delivered to the agency which took the original permanent entrustment agreement.

3.A.5.4 The permanent entrustment agreement can be revoked prior to its finalization by the court upon proof of fraud or duress, or after the placement of the child in an adoptive home with the written consent of the birth parent(s) and prospective adoptive parent(s) or the child-placing agency according to Sections 63.2-1204 and 63.2-1221 of the Code of Virginia.

A birth parent can seek to revoke their consent or entrustment agreement after seven days from the date they sign the entrustment agreement if they prove fraud or duress in a circuit court or if all parties (birth parent(s),

adoptive parent(s) and agency) agree. Before the seven days elapse from signing an entrustment agreement a birth parent(s) can revoke consent or the entrustment agreement for any reason.

3.A.5.5 When the entrustment agreement is revoked, custody of the child must be returned to the birth parent. Information from the Central Criminal Record Exchange, the Federal Bureau of Investigation and the child abuse and neglect central registry shall not be required when a birth parent revokes an entrustment agreement (*Code of Virginia*, Section 63.2-901.1).

3.A.6 Restrictions placed on the permanent entrustments

When a child enters care through a permanent entrustment agreement, there must be a subsequent court order. The court order must be obtained within 180 days (6 months) of the date the entrustment is signed. The order must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child, or that there is no less drastic alternative than removal of the child from the home. The court order must also include a finding that reasonable efforts have been made to prevent removal from the home. The effect of the court's order approving a permanent entrustment is to terminate the parental rights of the parents who signed the agreement. Once parental rights are terminated by the court, the entrustment agreement is irrevocable.

3.A.7 Counseling Services That Must Be Provided

When birth parents are considering voluntarily terminating their parental rights by signing a permanent entrustment agreement, the birth parents shall be provided the opportunity for counseling by a social worker (Section 63.2-1224, *Code of Virginia*). Counseling should address issues related to but not limited to:

- 3.A.7.1 Services available to maintain the child at home; placement with relatives; or temporary foster care and services to return the child home;
- 3.A.7.2 The long term impact of the decision to place the child for adoption on birth parent(s) and child;

- 3.A.7.3 Helping birth parent(s) understand the importance of sharing family, medical and genetic information for the child to be adopted. This information should be gathered during the counseling session, if possible; and
- 3.A.7.4 Obtaining information from birth parent(s), or informing them of, newly learned medical or genetic information that is important for the adopted child and family or for the birth parent(s) and their present children.

When a permanent entrustment agreement is submitted for court approval, the court will base the determination on whether reasonable efforts have been made to prevent the child's removal on the fact that counseling to birth parents was provided.

3.A.7.5 [Section 16.1-277.01](#), *Code of Virginia*, requires in any case in which a child has been entrusted pursuant to Section 63.2-900, 63.2-903 or 63.2-1817, to the local board of social services or to a child welfare agency, a petition for approval of the entrustment by the board or agency shall be filed.

3.A.7.6 [Section 16.1-277.01](#), D, *Code of Virginia*, provides that at the conclusion of the hearing regarding the entrustment agreement, the court shall make a finding, based on a preponderance of evidence, whether approval of the entrustment agreement is in the best interest of the child. However, in the case of a permanent entrustment involving termination of parental rights, the finding shall be based upon clear and convincing evidence.

3.A.8 Notice of the court approval of permanent entrustment

- 3.A.8.1 It is the responsibility of the court to provide notice of the hearing on the approval of the entrustment and a copy of the petition to the following:

The local department of social services or the licensed child placing agency,
the child, if twelve or older,
the guardian ad litem for the child,
the child's parents, guardian, legal custodian or other person standing in loco parentis to the child.

Parent(s) of a child are identified as the following:

The mother and:

The father, which may be the:

An acknowledged,

An adjudicated,

A presumed, and/or

A registered putative father.

3.A.8.2 Birth Father Notice

- 3.A.8.2.1 When the birth father is required to be given notice of the permanent entrustment it should be by registered or certified mail to his last known address and a return receipt of the father's signature.

The father has within 15 days of the mailing of the notice to object or his entrustment is not required. The objection shall be in writing, signed by the birth father or the counsel of record, and shall be filed with the agency that mailed the notice. (Section 16.1-277.01.B, *Code of Virginia*)

The presumed father shall receive notice of the permanent entrustment, except in the circumstances noted in section 3.A.4.2.

3.A.9 Court petitions to voluntary termination of parental rights

- 3.A.9.1 The second method of voluntary termination includes the following:

Parental petition for relief of care and custody
(Section 16.1- 277.02)

Parent(s) file a joint petition with the juvenile and domestic relations district court, requesting termination of parental rights. When appropriate, the agency should join in the filing of the petition.

3.A.9.2 Appeal of Court Order

Once the agency has petitioned the court to approve a permanent entrustment agreement and the court has held a

hearing and issued a final order terminating parental rights, the parent cannot revoke the agreement. The parent(s) may appeal the order. (Section 16.1-296).

3.A.10 Involuntary method to terminate parental rights (Section 16.1-283).

If it is not possible to achieve termination of parental rights voluntarily, then the agency must petition the court for termination of parental rights (TPR). These procedures define how parental rights are terminated involuntarily.

The agency need not have identified an available family to adopt a child prior to termination being sought or the court's entering a termination order. (Section 16.1-283a).

[Section 16.1-283](#), *Code of Virginia*, provides for the residual termination of a parent or parents may be terminated by the court ...if the petition specifically requests such relief.

3.A.10.1 Grounds for termination of parental rights

The court uses the following grounds to make determinations that termination of parental rights is in the best interest of the child. The legal standard for making this finding is clear and convincing evidence.

The parental rights of a child placed in foster care as a result of court commitment, an entrustment agreement, or other voluntary relinquishment by the parent or parents, may be terminated based on the following grounds:

A.10.1.1 Failure to maintain contact (Section 16.1-283 C)

The parent or parents have, without good cause, failed to maintain continuing contact with and to provide or substantially plan for the future of the child for a period of six months after the **child's** placement in foster care. Lack of

contact continues even with the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship. Proof that the parent or parents have failed without good cause to communicate on a continuing and planned basis with the child for a period of six months shall constitute prima facie evidence of this condition.

A Child support payment in absence of other contact with the child is not considered contact (Section 63.2-1202.H).

A.10.1.2 Failure to make progress (Section 16.1-283 C)

The parent or parents, without good cause, have been unwilling or unable, within a reasonable period not to exceed twelve months from the date the child was placed in foster care, to remedy substantially the conditions which led to or required continuation of the child's foster care placement. Lack of progress exists even with the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end.

The foster care plan filed with the court or any other plan jointly designed and agreed to by the parent or parents and a public or private social, medical, mental health or other rehabilitative agency shall constitute prima facie evidence of this condition. The court shall

take into consideration the prior efforts of such agencies to rehabilitate the parent or parents prior to the placement of the child in foster care.

A.10.1.3 Abandonment (Section 16.1-283 D)

The child was abandoned and the identity of the whereabouts of the parent or parents cannot be determined after a diligent search; and the child's parent or parents, guardian or relatives have not come forward to identify such a child and claim a relationship to the child within three months following the issuance of an order by the court placing the child in foster care.

A.10.1.4 Convictions for certain crimes (Section 16.1-283 E)

The parent has been convicted of an offense under the laws of this Commonwealth or a substantially similar law of any other state, or any foreign jurisdiction which constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child, or

The parent has been convicted of an offense under the laws of this Commonwealth, any other state, or any foreign jurisdiction which constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense or the other parent of the child. "Serious bodily injury" means

bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

The parent has subjected any child to aggravated circumstances. Aggravated circumstances means torture, chronic or severe abuse, or chronic or severe sexual abuse if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect evinces a wanton or depraved indifference to human life or has resulted in the death or such a child or in serious bodily injury to such a child. Chronic abuse or chronic sexual abuse means recurring acts of physical abuse which place the child's health, safety and well-being at risk. Severe abuse or severe sexual abuse may include an act or omission that occurred only once, but otherwise meets the definition of aggravated circumstances.

A.10.1.5 Termination of residual rights to another child
(Section 16.1-283 E and F)

The residual parental rights of a sibling of the foster child have previously been involuntarily terminated.

A.10.1.6 Unlikelihood that conditions can be corrected
(Section 16.1-283 B1 and B2)

For children who have been found by the court to be abused and neglected and in foster care, the following grounds may be used:

(i) The neglect and abuse suffered by the child presents a serious and substantial threat to his or her life, health, or development; and

(ii) It is not reasonably likely that the conditions which resulted in neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time. In making this determination, the court shall take into consideration the efforts made to rehabilitate the parent or parents by any public or private social, medical, mental health or other rehabilitative agencies prior to the child's initial placement in foster care as well as efforts after placement.

Evidence of unlikelihood may be as follows:

- The parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and state of development;
- The parent or parents have habitually abuse or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or
- The parent or parents, without good cause, have not responded to or

followed through with appropriate available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

3.A.11 Procedures to follow for court termination

The worker should consult with the agency attorney to determine whether there are grounds for termination of parental rights and to prepare for a termination of parental rights hearing. The agency may hire an additional attorney for the child if the guardian ad litem needs assistance when the agency's petition is contested, the court's decision is appealed, or a separate petition is filed, any of which appear contrary to the child's best interest. State pool funds may be used to pay the attorney's fee. Court related costs, such as assistance of expert witnesses, may be purchased as a foster care service.

The agency must assess prior to the permanency planning hearing whether termination of parental rights is in the best interests of the child prior to the permanency planning hearing. The agency would then file a petition and service plan with the court with the goal of adoption 30 days prior to the permanency planning hearing.

The service plan should document that termination of parental rights is in the child's best interest. The service plan changing the goal to adoption and the petition may be submitted to the court and considered by the court at the same hearing (Section 16.1-283 A). The petition must specifically request that parental rights of the parents be terminated and that the agency be given the authority to place and consent to adoption of the child.

If a matter involving the child's custody has previously gone to a circuit court that court has jurisdiction and the petition must be filed there. The court will set a hearing date.

3.A.11.1 Notifying interested persons of the TPR court hearing. (Section 16.1-263)

It is the local agency's responsibility to submit the service plan 30 days prior to the hearing in order to allow the court sufficient time for giving legal notice.

A.11.1.1 Who gives notice

The court where the hearing will be held is responsible for giving legal notice.

A.11.1.2 Who receives notice

- Parents;
- Child if 12 years of age or older;
- Guardian or legal custodian;
- Parents' attorney;
- Guardian Ad Litem;
- Court appointed special advocate (CASA);
- Current foster parents; and
- Other necessary parties.

A.11.1.3 How Notice is given for TPR hearing

- Delivered in person by sheriffs, their deputies, and police officers in counties or cities, or by any other suitable person designated by court;
- Certified mail with addressee only signing the return receipt; or
- Order of publication. Orders of publication must state the purpose of the petition to be heard and where and when the hearing is to be held. Such orders must be published once each week for four successive weeks, in such newspaper as the court may prescribe. They require the defendant to appear to protect his interests on or before the date

stated in the order (Section 8.01-317).

A.11.1.4 When notice is not required for TPR

Notice is not required if a parent:

- Has signed a permanent entrustment agreement;
- Has signed an affidavit waiving all rights to notice; or
- Is represented by counsel and counsel receives notice.

Situations when the putative father may or may not need notification:

- If his identity and location are known, the agency should contact him about signing a permanent entrustment agreement or affidavit waiving all rights to notice. If he is unwilling to sign an agreement or affidavit, the court will notify him of the hearing (Section 16.1-277.01.B).
- If the father's identity is known, but his current whereabouts are unknown, the agency must attempt to contact him at his last known address by registered certified letter. This must be done before petitioning the court for termination of his rights. To satisfy the "diligent efforts" requirement of the law, the agency must attempt to locate the father through all sources such as relatives, former employers, social security, etc. If he cannot be found or if his

address cannot be ascertained, the court may an order of publication. (Section 16.1-264 A).

- If the identity is not known or not reasonably ascertainable, the **agency may obtain an affidavit from the birth mother that the identity of the birth father is unknown or not reasonably ascertainable. The agency may file this affidavit with the court as evidence that the identity of the father is unknown or unascertainable. (Section 63.2-1222.B).**

The agency must continue to check the Virginia Putative Father Registry to determine if a putative father has registered as the father of the child.

- If the mother knows the father's identity but she refuses to reveal it, the court certifies on the record that the father's identity is not reasonably ascertainable. The court may appoint a guardian ad item to protect the rights of the unknown father.

3.A.11.5 Transportation of prisoners for testimony in child welfare cases
(Section 16.1-276.2, 16.1-276.3, 17.1-513.2)

If a parent is incarcerated, the court may authorize the Department of Corrections to have the prisoner transported to provide necessary testimony in hearings related to child welfare. The testimony of prisoners can also be acquired using electronic video and audio communication systems or telephonic communication systems in lieu of a personal appearance if authorized by the court.

3.A.11.6 Order to terminate parental rights

After the hearing, the court will send the agency a copy of the termination order. The order must specify termination of all parental rights with the agency's authority to place and consent to adoption. If not specified, the agency must ask the court to clarify, in writing, the intent of the order. If a parent denies paternity or if the identity of a parent is unknown, the court order must still specify termination of all parental rights.

There is an exception. If a parent's rights have already been terminated by a permanent entrustment agreement, then the order does not need to specify termination of that parent's rights. (Section 16.1-278.3, 16.1-283)

3.A.12 Appeals

Appeals must be made to a juvenile court within 10 days of the entry of the order terminating parental rights. The circuit court should schedule the appeal within 90 days from the day that it was filed. (Section 16.1-296) A child is not legally free for adoption until the appeal has been settled.

3.A.13 Status of child after TPR has been achieved

The child remains in the custody of the local board until final order of adoption. The court must continue annual foster care review hearings for children whose parental rights have been terminated until a final order of adoption is entered. Administrative Panel Reviews must continue, alternating with the court's Foster Care Review Hearings every six months. The Foster Care Service plan must be reviewed at each six-month hearing or review.

The Adoption Progress Report serves as the primary documentation by the agency of its efforts to place the child in an adoptive home in a timely manner in accordance with the foster care plan. The Adoption Progress Report is filed with the court every six months from the date of final order terminating parental rights until the final order of adoption is entered on behalf of the child. The Adoption Progress Report is further addressed in section 3.I.

OASIS: Termination of parental rights is documented on two screens. The paths are: Workload, Court, CI Crt Info, Hearing/Rev and Workload, Court, CI Crt Info, Par Rights

3. B. Planning For Adoption Placement

The first step in planning for adoption placement involves assessment of the child's needs. Assessment is an ongoing process and continues for as long as the child remains in foster care. For some children assessment begins even before the child comes into foster care, with a protective service risks assessment. The outcome of any assessment should be a clear, specific identification of the child's strengths and needs. There must be documentation in the record that supports the assessment. For example, a child must not be identified mentally retarded without the results of a psychological evaluation and medical report included as a part of the record.

The following briefly describes some of the assessments which are made. For detailed information, see Volume VII, Section III, Chapter A (Child Protective Services) and Chapter B (Foster Care).

3.B.1 Child Protective Services Initial Safety Assessment

It is critical that the Child Protective Services Worker conducting the CPS investigation immediately make an initial assessment of the circumstances surrounding the allegation of abuse or neglect and identify the immediate safety needs of the child and family. Factors examined in this assessment include:

- 3.B.1.1 The immediate danger to the child, including whether the child sustained a mental or physical injury warranting immediate attention or care, and whether the child is at imminent risk of serious abuse or neglect;
- 3.B.1.2 The immediate needs of the family, including whether the family has the capacity to protect the child from imminent harm and whether any other family members are at risk, and
- 3.B.1.3 Whether a safety plan is required due to a conclusion that one or more children are unsafe or conditionally safe.

3.B.2 The Protective Services Risk Assessment

This assessment is completed initially by the protective services worker during a child protective services investigation and periodically throughout the life of the case. The purpose is to determine the likelihood of a child being harmed by a caretaker and the services to be provided to reduce risk of harm. This assessment includes information related to the following factors:

- 3.B.2.1 The incident of abuse and degree of harm to the child;
- 3.B.2.2 The child and his/her physical and mental vulnerability;
- 3.B.2.3 The caretaker and his/her ability or willingness to stop the abuse;
- 3.B.2.4 The family and its ability or willingness to provide protection for the child; and
- 3.B.2.5 Any other factors which contribute to greater or lesser risk to the child.

3.B. 3 The initial foster care assessment.

When a child comes into foster care, an initial assessment is completed by the foster care worker within 60 days of placement outside of the home. It is a separate identifiable part of the foster care record and includes:

- 3.B.3.1 Identifying information about the child;
- 3.B.3.2 Circumstances which led to the child coming into foster care;
- 3.B.3.3 Background history about the child and birth family;
- 3.B.3.4 A summary of the child's and family's needs; and
- 3.B.3.5 Identification of parental conditions or circumstances that need to change in order to reduce risk of harm to the child and to achieve the goal of return home.

OASIS path: Workload, Case Plan, FC, Assess

3.B.4 Foster care reassessments

Reassessments are completed every six months and are documented on the Foster Care Service Plan Review. The reassessments include:

- 3.B.4.1 The services which have been offered to the child and family to reduce risk of harm to the child so that the child can return home;
- 3.B.4.2 The current situation of the birth family or prior custodian;
- 3.B.4.3 The current situation of the child and the child's adjustment to placement including:
 - B.4.3.1 Pertinent information about birth, medical and developmental history of the child, if not already documented in the record.
 - B.4.3.2 Information on current health and physical development and recommendations for any necessary follow-up treatment or further check-ups with specialists.
 - B.4.3.3 If there are problems, current information on developmental and educational functioning with specific descriptions and recommendations regarding peer relationships, coping mechanisms, learning disabilities, emotional symptoms or behavior problems.
 - B.4.3.4 Information from the foster parents about the child's adjustment to foster care and the child's current level of social and emotional adjustment.
 - B.4.3.5 Information regarding the child's current relationship with siblings and if siblings are not placed together, services that need to be provided when they are reunited to achieve any of the goals.

B.4.3.6 Information about the child's relationship with the birth family, including extended relatives; and an assessment of risk to the child should the child return home.

B.4.3.7 Information about the child's relationship with the foster parents to assess the degree of attachment between foster parents and the child;

3.B.4.4 The reasons for retaining the child in care, including efforts made to return the child home; and

3.B.4.5 The status of the responsibilities of the parent or prior custodians, including behaviors that put the child in jeopardy.

OASIS path: Workload, Case Plan, FC, Service Plan, Review

3.B.5 Adoption Assessment

3.B.5.1 When the goal of adoption is selected, consultation between the foster care and adoption staff must occur. An assessment must be made to determine that all necessary information has been obtained. Additional information may need to be gathered. This information is critical as it will serve as a basis for identifying adoption services, will be used in the selection of an appropriate adoptive home, and will be the only information available to the child after adoption about the child's birth family and background. If any of this information is missing from the foster care record, one of the services that must be identified on the Foster Care Service Plan is to obtain the missing information. The following information must be obtained if it is not in the record:

B.5.1.1 Detailed information about birth, medical and developmental history of the child and family, including genetic information.

B.5.1.2 Current information on health, developmental and educational functioning of the child; and

recommendations for any necessary follow-up treatment or further check-ups with specialists. If medicals and psychologicals have not been done in the last 12 months, the adoptive placement plan must reflect that these will be obtained once termination of parental rights has been achieved.

B.5.1.3 Information from foster parents about the child's attitudes, habits, and daily routines, their methods of discipline and pertinent observations as to the child's reactions and relationships in their home, likes and dislikes, nicknames, and favorite toys.

B.5.1.4 Information regarding whether the siblings are presently together in foster care and the relationships of the siblings to each other. It is the guidance of the state of Virginia to place siblings in a single adoptive home when it is determined to be in the best interests of the children.

B.5.1.5 Information about the child's relationship with the birth family, including extended relatives, and an assessment of the impact of termination of parental rights on the child and family.

B.5.1.6 Information about the child's relationship with the foster parents to assess the level of bonding **and** to determine whether the foster parents should be considered as an adoptive resource for the child.

3.B.5.2 A determination must be made as to whether the child has special needs. This determination should result from the assessment, should focus on whether the child has individual characteristics that would make the child hard to place for adoption, and is for the purpose of determining potential eligibility for adoption assistance.

3. C Providing Foster Care Services

Foster care services must be provided until the child is placed in an adoptive home and an Adoptive Placement Agreement has been signed (See Part 5 for

foster care services that may be continued after placement in the adoptive home).

3. D Preparing The Child For Adoption

Preparing the foster child for the permanency of adoption should include:

3.D.1 Establishing a relationship of trust and confidence between the child and the worker who will serve as a bridge between the foster home and the adoptive home;

3.D.2 Putting the past into proper perspective for the child with continuous assistance in understanding and accepting the reality of his birth family's status, past placements and relationships, and why he cannot return to his own parents or remain with his foster parents.

3.D.2.1 Helping the child to communicate his feelings about himself and significant others, his fantasies, hopes, and fears in accordance with his age and ability to verbalize. This "grief work," helping the child say good-bye to and let go of the past may require contact with the birth family and consultation with both the protective service worker and the foster care worker.

A good tool to use with children is to assist the child in assembling a personal "Life Book". A Life Book is a scrapbook or notebook of pictures of the child, pictures of important people such as birth parents and other caretakers, and memorabilia such as might be found in a baby book. The pictures and memorabilia should be accompanied by a written description of who, how, and why. The written part of the Life Book is as important as the pictures.

3.D.2.2 Enlisting the cooperation of foster parents and other people who are important to the child, including teachers, siblings, ministers, etc. in supporting the plan for adoption is essential for a child of any age and includes the following:

- D.2.2.1 Recognizing the advantage of participation by these individuals in the transfer of trust during the adoptive placement process;
- D.2.2.2 Acknowledging their special contributions to the child and understanding the discomfort of foster parents in letting the child go to another family;
- D.2.2.3 Enabling them to understand the child's ambivalence and anxiety about leaving them and giving them a specific role to play in helping the child to move away from them;
- D.2.2.4 Involving these individuals in the process of selection of a family for the child;
- D.2.2.5 Helping to support the adoptive placement when appropriate.

3.D.2.3 Concurrent Planning

When appropriate, the agency should develop a concurrent plan for permanency, while the agency is working toward returning the child home. Early in the foster care placement, the agency may be taking steps toward other permanent arrangements for the child in the event that the parents are unable to resume care of the child. Alternate plans may be placement with relatives or adoption. One of the steps would be exploring with the child's foster parents their interest in becoming adoptive parents to the child, should the child be unable to return home or placed with relatives. Another option would be placing the child in a home which is already dually approved as a foster and adoptive home, where the

foster/adoptive parents are interested in adopting a foster child.

3. E Recruiting Prospective Adoptive Families

Federal law requires that reasonable efforts be made to locate adoptive homes.

Title IV-E, Section 471.(a), (15) (C) Social Security Act. In order for a state to be eligible for payments under this part, it shall have a plan approved by the secretary which provides that: (c)...reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan, and to complete whatever steps are necessary to finalize the permanent placement of the child.

Title IV-B, Section 422 (9), Social Security Act. Each plan for child welfare services must provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed.

Local resources as well as State and national resources must be used to recruit adoptive families.

3.E.1 Local resources include:

3.E.1.1 Full exploration of relatives who have a bond with the child and may be willing and able to provide a permanent home to the child

Exploration of adoption with the child's current foster parents. This includes initial staffing involving individuals who know the child and foster family to assess the level of attachment and degree to which the child's needs are being met. It then involves helping the foster parents make informed decisions about whether they want to make a permanent commitment to this particular child.

3.E.1.2 Purchase of services from child-placing agencies which specialize in finding homes for special needs children. Agencies from which services are purchased must be licensed or approved to provide

these specific services and must be listed in the CSA Service Fee Directory. Funding for these services should come from CSA, as they are an integral part of the permanency plan for the child. Contact the appropriate regional Foster Care/Adoption Program Specialist for assistance, if needed.

- 3.E.1.3 Use of media. Publicizing the needs of specific children through newspaper and magazine articles, and spot announcements or educational programs on radio and television have proven more effective than generalized recruitment. Confidentiality is critical and identifying information on the child must not be given for publicity purposes. The child's first name is sufficient for publicity purposes.
- 3.E.1.4 Civic Organizations. Civic organizations are a good source, not only for recruitment purposes, but also to provide volunteer help in other recruitment or public awareness efforts. Many civic groups have newsletters which can be helpful in increasing awareness of adoption services and children available.
- 3.E.1.5 Posters. Posters advertising the types of children available for adoption can be effective when placed in strategic locations.
- 3.E.1.6 Adoptive and Foster Parents. Adoptive couples can be used as a resource in sharing experiences through individual contacts, group meetings, or in public media. In many areas, adoptive and foster parents have formed groups which can be valuable in the recruitment process.
- 3.E.1.7 One Church One Child Churches. These are African-American churches that have made a commitment to recruit from within their congregations at least one adoptive family. For information on churches in your locality, contact the AREVA Unit in Central Office.
- 3.E.1.8 Regional adoptive recruitment groups. These

groups are comprised of public and private adoption staff and focus on regional recruitment needs. For information, contact the AREVA Unit in central office.

- 3.E.1.9 Adoption Development, Outreach, Planning and Training (ADOPT). ADOPT is a statewide organization of public and private agency adoption workers. Members network in order to match waiting children and families. The ADOPT website is www.adoptva.org.

3. E.2 The “State” resource is the Adoption Resource Exchange of Virginia (AREVA). The Virginia Administrative Code provides the following:

[22 VAC 40-250-20](#). Adoption Resource Exchange of Virginia.

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children. (See Part 7 for AREVA details).

The services provided by AREVA shall include:

- 3.E.2.1 Maintaining a registry of children awaiting adoption and a registry of approved families waiting for adoption;
- 3.E.2.2 Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;
- 3.E.2.3 Providing information and referral services for children who have special needs to link agencies and other adoption resources;
- 3.E.2.4 Providing consultation and technical assistance to agencies in finding adoptive families for waiting children;
- 3.E.2.5 Monitoring agency compliance with legal requirements and State Board policy on registration of children;

The AREVA website, www.adoptUSkids.org/states/va, provides a photo listing and descriptions of Virginia children waiting for adoption.

OASIS path: Workload, Case Plan, FC, Pre-Adopt, AREVA

3.E.3 National resources include:

3.E.3.1 The National Adoption Exchange Association website, www.adoptUSkids.org, features a national photo listing of children available for adoption, and

3.E.3.2 The National Adoption Information Clearinghouse (NAIC), <http://www.childwelfare.gov>.

3. F Selecting The Most Desirable Adoptive Home

The input **of a team, including** staff members and the child's foster parents, is advisable in the process of selecting the most appropriate home for a specific child. Local agencies must adhere to the Adoptive Home Standards in approving adoptive homes, as provided in Part 10.

Development of a group of professional resource people in the community to serve as specialized consultants can also be beneficial, especially for special-needs children. A multi-disciplinary group can provide information as to the specialized type of care, behaviors exhibited, daily routine, and on-going medical or psychiatric needs of the child and can help assess the impact of placement of a child with the particular family under consideration. Both the child's worker and the prospective parents' worker should participate in the evaluation.

Section 63.2-1225, Code of Virginia. Prior to or after the acceptance of custody of a child placed for adoption, a licensed child-placing agency or a local board shall consider the recommendations of the birth parent(s), a physician or attorney licensed in the Commonwealth, or a clergyman who is familiar with the situation of the prospective adoptive parent(s) or the child. No birth parent, physician, attorney or clergyman shall advertise that he is available to make recommendations, nor shall he charge any fee for such recommendations to a board or agency, except that an attorney may charge for legal fees and services rendered in connections with such placement.

[Section 63.2-1225.b](#), *Code of Virginia*. The agency or local board may give consideration to placement of the child with the recommended adoptive parent(s) if the agency or local board finds that such placement is in the best interest of the child. When birth parents recommend such a placement the agency or local board shall provide the birth parent(s) the opportunity to be represented by independent legal counsel as well as the opportunity for counseling with a social worker. The agency or local board shall advise the adoptive parent(s) of the right to be represented. The adoptive parents and birth parents may but are not required to exchange information of full name and addresses.

- 3.F.1 Selection of the most appropriate family should be based on an assessment of the family's ability to parent this particular child and should include an evaluation of:
- 3.F.1.1 The similarity of the race, culture, and ethnic and religious background of the family to that of the child. This evaluation is for the purpose of determining the family's ability to parent a child of another race, culture, or ethnic and religious background and shall not be used to deny or delay a placement;
 - 3.F.1.2 Bonds the child has with relatives or current foster parents. If significant emotional ties have been established between the child and relatives or the foster parents, this family must be given first consideration;
 - 3.F.1.3 Current family composition and life style to determine whether there is "emotional room" for this particular child;
 - 3.F.1.4 Personalities, ages and needs of other children already in the adoptive home to evaluate the total impact which addition of another child may have;
 - 3.F.1.5 If appropriate, the family's ability to maintain contact with significant people in the child's life, including birth parents, birth relatives, and foster parents;
 - 3.F.1.6 The family's flexibility in terms of expectations for themselves and their children in relation to the potentials of the child to be adopted;

3.F.1.7 The resources available in the family and community to meet the needs of the child.

3.F.2 Federal laws prohibit agencies from denying or delaying placements on the basis of race, culture, or national origin.

Title IV-E, Section 471(a) (18) of the Social Security Act provides that neither the state nor any other entity in the state that receives funds from the federal government and is involved in adoption may:

A) deny to any person the opportunity to become an adoptive parent on the basis of race, color, or national origin of the person or of the child involved; or

(B) delay or deny placement of a child for adoption on the basis of race, color, or national origin of the adoptive parent or the child involved.

3.F.3 State laws require compliance with the Interstate Compact on the Placement of Children whenever the child is to be placed out of state. Contact the Interstate Placement Unit in the Division of Family Services as soon as the decision is made to place a child with a family who lives out of state (See Volume VII, Section III, Chapter E for details on Interstate Placements).

[Article III, Chapter 10 of Title 63.2](#) of the *Code of Virginia* provides conditions for interstate placements. **Conditions for Placement** (a) no sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

3.F.4 Federal laws prohibit agencies from denying or delaying placements on the basis of geographical location of the adoptive family.

Title IV-E, Section 474(e) of the Social Security Act provides that a state shall not be eligible for any payments under this section if the state has (1) denied or delayed the placement of a child for adoption when an approved family is available outside of the jurisdiction with responsibility for handling the case of the child; or (2) failed to grant an opportunity for a fair hearing to an individual whose allegation of a violation of paragraph (1) is denied by the state or not acted upon by the state with reasonable promptness.

- 3.F.5 In 1978, the U.S. Congress passed the Indian Child Welfare Act, commonly known as ICWA.

ICWA, at 25 U.S.C. Section 1902, states as its purpose: the Congress hereby declares that it is the policy of this nation to protect the best interest of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture by providing for assistance to Indian tribes in the operation of child and family programs.

While Virginia does not have any federally recognized tribes, members of federally recognized tribes may be residents of Virginia. All children who have Native American Indian or Alaskan Eskimo heritage may be subject to the Indian Child Welfare Act. Prior to taking any action for one of these children, the agency must contact the tribe. As of June 1999, a listing of recognized tribes and designated tribal representatives with addresses and phone numbers can be found at the Department of Interior website, www.doi.gov/bia/desigag.html, under the Bureau of Indian Affairs. The agency must contact the Tribal Council about the child's membership or eligibility for membership in a federally recognized tribe. If the child belongs to a Virginia tribe, the child is not subject to the ICWA and the local court has jurisdiction.

3.G Post-Adoption Contact and Communication Agreement

Open adoption is an adoption practice that facilitates communication between the birth parent and the adoptive parent throughout the lifetime of the child. The Post-Adoption Contact and Communication Agreement (PACCA) is intended to support open adoptions in Virginia, especially for older children in foster care with significant emotional attachments with their birth parents.

The 2009 General Assembly created a legally enforceable agreement for contact and communication after the legal adoption of a child called the Post-Adoption Contact and Communication Agreement (PACCA). *Code of Virginia* sections of law affected by the PACCA are 63.2-1228.1, 63.2-1228.2, 16.1-283.1, 16.1-277.01, 16.1-277.02, and 16.1-278.3.

The *Code of Virginia* uses the term *agency sponsoring the adoption* in describing the process for developing a PACCA. For the purpose of this guidance, this is the

agency authorized to place and to consent to the adoption for the child. This may be a local department of social services or a licensed child-placing agency.

A PACCA will only be used in cases where (i) it is determined to be in the child's best interests; (ii) the agency sponsoring the adoption recommends a PACCA; (iii) the child's guardian ad litem (GAL) recommends a PACCA; (iv) the biological parents want to sign a PACCA; (v) the prospective adoptive parents want to sign a PACCA; and (vi) if the child is at least 14 years old, the child agrees to a PACCA. If all of these conditions cannot be met, there can be no PACCA. If everyone agrees and signs a PACCA, the prospective adoptive parent submits the PACCA to a circuit court in Virginia with their petition for the adoption. Once the adoption is approved, the terms of the PACCA become enforceable in circuit court by either the biological or the adoptive parents. However, the termination of parental rights (TPR) and adoption are irrevocable and failure to comply with the PACCA by either party has no affect whatsoever on the validity of the TPR decision or adoption. Additionally, a court cannot require a PACCA as a precondition to making a decision in any case involving a child prior to the adoption.

Section 16.1-277.01.D, The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

The scope of post adoption contact is not limited by law. Accordingly, post adoption contact between biological parents and the child can be as extensive (e.g. weekly visitation) or as limited (e.g. a photo once a year) as the birth and adoptive parents agree, subject only to agency and GAL approval with the agreement.

Generally, the agency should not consider a PACCA until after a court has terminated the residual parental rights of the birth parents. However, if the child is at least 14 years old and is objecting to the termination because of a desire to maintain contact with the birth parents, discussion of the PACCA may be appropriate prior to the TPR. The decision to pursue a PACCA should be made independently of the decision to pursue termination of parental rights.

3.G.1. General Considerations

Birth parents, prospective adoptive parents, and the child to be adopted will have different factors to consider in deciding whether to enter into a PACCA. Some benefits and limitations of the agreement follow:

Family Entity	Benefits	Limitations
Child	<ul style="list-style-type: none"> • Has a realistic understanding of the circumstances regarding the birth parent(s) • Has a sense of security and well-being knowing the adoptive parent(s) and birth parent(s) work collaboratively to support the child 	<ul style="list-style-type: none"> • Allows only the birth parent(s) and adoptive parent(s) to enter into the PACCA as a party • Does not allow grandparents, siblings or other birth relatives the option to enter into a PACCA
Birth Parent	<ul style="list-style-type: none"> • Have the ability to exchange information with the adoptive parent on an ongoing basis • Know that the child is in a safe and secure environment • Know that the child will have information regarding the birth family 	<ul style="list-style-type: none"> • Interest in a PACCA does not guarantee an agreement will occur • Allows only the birth parent(s) to enter into the PACCA as a party • Does not allow grandparents, siblings or other birth relatives to enter into a PACCA
Adoptive Parent	<ul style="list-style-type: none"> • Supports the child's need to identify with the birth family and accept the new adoptive family • Allows a better understanding and knowledge of the biological family • Allows access to obtain additional family information, if needed • Obtains support of the birth parent(s) to help the child to become a member of the adoptive family • Having the ability to exchange ongoing information about the child 	<ul style="list-style-type: none"> • Entering into a PACCA will not guarantee a continued relationship with the birth parent(s) • Requires the PACCA to be submitted to and enforced by a circuit court in Virginia.

The PACCA is also aligned with the guiding principles of the Virginia Children's Services Practice Model.

A PACCA requires acknowledgements and conditions. These acknowledgements and conditions include, but are not limited to:

The PACCA can be used in all agency placements. Post-Adoption Contact and Communication Agreements are not authorized in parental placement adoptions.

The prospective adoptive parent(s) and birth parent(s) must be informed that a PACCA is optional.

The PACCA allows the birth parent(s) or the prospective adoptive parent(s) the right to seek enforcement of the agreement.

A PACCA is not required to complete an adoption nor is it a precondition to enter any order involving a child.

The prospective adoptive parent(s)/petitioner(s) must submit the PACCA with the petition for the adoption.

The agency sponsoring the adoption, or when there is no sponsoring agency, the agency that completes the adoption report and the child's guardian ad litem (GAL) must recommend that the PACCA be approved.

The adoption is irrevocable even if the adoptive parent(s) or birth parent(s) do not honor the PACCA.

The decision to pursue a PACCA is made independently of the decision to terminate parental rights.

3.G.2 Determining Best Interest of the Child with a PACCA

Generally after the termination of parental rights has been achieved, the agency sponsoring the adoption uses a team approach to assess and determine the best interest of a child for a PACCA. The team may include the social worker of the sponsoring agency, GAL, any agency professional(s) preparing the child or adoptive parent for adoption and/or therapist.

3.G.2.1 To determine the best interest of the child, the team considers whether:

after the adoption, the child would be at risk of physical and/or emotional harm;

the incident of extreme cruelty, sexual abuse, or other factors that occurred prior to foster care or while in placement would negatively impact a child to have contact or communication with the birth parent(s) after an adoption;

the child has a therapist, and the therapist's perception on a PACCA's impact on the child's well being; and

the child has an ongoing relationship with the birth parent(s), and what the nature of that relationship is defined.

3.G.2.2 The agency social worker documents the reasons why a PACCA is or is not recommended in the child's case narrative.

There is no process for appeal if the birth parent(s) or adoptive parent(s) do not agree with the team's decision to not recommend a PACCA.

3.G.2.3 After the team determines that a PACCA is in the best interest of a child, the agency social worker discusses whether the following individuals would be interested in pursuing the PACCA:

- the child,**
- the prospective adoptive parent(s), and**
- the birth parent(s).**

If a child is 14 years of age or older, the child must consent to the PACCA.

3.G.3 If the birth parent(s), child, and the prospective adoptive parent(s) are interested in developing an agreement, the agency social worker would discuss the benefits and limitations with them, separately or together, as appropriate.

3.G.4 Who Enters Into the Agreement

The parties who enter into the PACCA are:

Birth parent(s) of a child in the custody of a local department or licensed child-placing agency and

Pre-adoptive parent(s) who have signed an adoptive home placement agreement.

Section 16.1-283.1, In any case in which a child has been placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents, or other voluntary relinquishment by the parent or parents, the child's birth parent or parents may enter into a written post-adoption contact and communication agreement with the pre-adoptive parent or parents....

Involved entities that are not considered parties:

- Local departments of social services,
- a licensed child-placing agency, or
- GAL.

The child does not enter into the PACCA as a party. A child 14 years of age or older will sign the PACCA to indicate consent.

3.G.5 How to Develop the PACCA

When a birth parent(s) and prospective adoptive parent indicate a willingness to develop a PACCA, the agency social worker provides suggestions for terms of the agreement and a packet of information to the birth parent(s) and prospective adoptive parent(s), which contains at least the following:

1) A fact sheet (form# 032-02-0659-eng) with the following statements that:

- the adoption is irrevocable even if either party does not honor the PACCA;
- a PACCA is optional;
- the agency sponsoring the adoption or completing the adoption report and GAL must recommend that the PACCA is in the best interest of the child;

- the prospective adoptive parent(s) must agree to the agreement;
- the birth parent(s) must agree to the agreement;
- the child age 14 and older must consent to the PACCA;
- a PACCA grants the birth parent(s) and/or adoptive parent(s) the right to seek enforcement of the agreement;
- that the prospective adoptive parent would have to submit the agreement with the petition for the adoption;
- the PACCA must be filed with the petition in a Virginia circuit court to be legally enforceable; and
- future changes, such as either party moving out of the state should be considered when developing the terms of a PACCA.

2) A copy of the benefits and limitations (form# 032-02-0660-eng) of a PACCA; and

3) Examples of types of contact and communication that can occur and some suggestions regarding frequency of contact, i.e.:

- types of contact: letters, phone calls, visits, email;
- provisions of visits, sharing photos and information on health, education and welfare;
- frequency of contact: on specified holidays, twice a year, three to four times a year, or annually;
- whether visits/contact should be made in person or not; or
- whether contact/communication is just between parents or includes the child.

4) The form for a PACCA (form number 032-02-0658-00-eng).

3.G.6 Role and Responsibility of the Agency Sponsoring the adoption or the agency completing the adoption report

The primary role of the agency sponsoring the adoption is to 1) determine along with the team if a PACCA is in the best interest of a child, 2) provide

a packet of information to the birth parent(s) and/or prospective adoptive parent(s), 3) determine if the parties are interested in a PACCA, 4) assist in determining appropriate types of contact and communication, 5) review the PACCA after it is developed and 6) sign the PACCA, if approval is recommended by the agency.

The agency sponsoring the adoption signs the agreement to indicate its recommendation for approval of the PACCA.

The agency will not sign the agreement if the agency does not agree with one or more terms within the PACCA.

If there is no sponsoring agency, the agency ordered by the circuit court to complete the Report of Investigation will include within the report that they have been informed of the PACCA and whether they recommend approval of the agreement.

Circumstances where there would not be an agency sponsoring the adoption include 1) in the event that the agency that has custody with the right to consent to adoption for a child is withholding consent; 2) a foster parent files a petition to adopt the foster child placed in their home; and, 3) another agency is ordered to complete the Report of Investigation.

3.G.7 Role and Responsibility of the GAL

The GAL must recommend approval of the PACCA; and, therefore, should be invited to the team meeting regarding the PACCA.

The GAL will review the PACCA and sign the agreement to indicate approval.

3.G.8 Modification and Enforcement of PACCA

3.G.8.1 A PACCA can be modified upon request by either the birth parent(s) or adoptive parent(s). Legal fees, the cost for a GAL and court reporter fees are the responsibilities of the parties involved. Special service payments from adoption assistance agreements shall not be used to modify and/or enforce a PACCA.

- The birth parent(s) or adoptive parent(s) who wish to modify the PACCA must file a petition with the circuit court of the

jurisdiction in which the final order of adoption was entered or the court designated in the final order to have jurisdiction over the PACCA.

- **The birth parent(s) or adoptive parent(s) requesting the modification of the PACCA must include in the petition to the circuit court that there has been a change in the circumstances and the PACCA is no longer in the child's best interest.**
- **The modification must be described in their petition.**
- **The birth parent(s) or adoptive parent(s) seeking to modify the PACCA may seek legal counsel to file the petition.**
- **The circuit court may appoint a GAL when a modification to the PACCA is requested.**
- **The circuit court will determine if any modifications to the PACCA will occur.**

3.G.8.2 The PACCA is enforced by the designated circuit court of jurisdiction for the PACCA.

- **A petition must be filed with the circuit court of jurisdiction to enforce the compliance of the agreement.**
- **Either the birth parent(s) or adoptive parent(s) may file a petition with the circuit court of jurisdiction.**
- **The circuit court may appoint a GAL when the court receives a petition for compliance with the PACCA.**
- **The circuit court may not award monetary damages.**

3.H Preparing The Family For The Child

- 3.H.1** When a family is selected for a child, the family's worker arranges an appointment to present information about the child to the prospective parents. **A discussion of the child's needs should**

be held even when the child is to be adopted by the foster parents. If possible, the child's worker should also be present, as the child's worker is the one most familiar with the child.

Prior to placement, adoptive parents have the right to full, factual information that the agency has about the child and the child's birth family, except that which would reveal the identity of the child's birth family. Information provided shall include complete medical reports and summaries of psychological reports. Copies of complete psychological reports are not to be shared without permission of the psychologist.

Information to be shared with the family must include:

- 3.H.1.1 Description of the child's present medical and developmental condition, and any special needs including any pertinent hereditary problems or future treatment to be considered for the child. It is critical that all known information about the child including reasons for entry into care, incidences of sexual abuse, and placement history be shared with the adoptive family so that the family can consult doctors and other professionals and make an informed decision;
- 3.H.1.2 Description of the child's characteristics including personality, behavior patterns, current educational functioning, habits, preferences, and characteristic reactions to certain situations (See the AREVA Child's Registration Form for guidelines on child's characteristics);
- 3.H.1.3 Information from medical and psychological reports on the birth family, an explanation of the birth family situation, reasons for relinquishment of the child and the child's understanding of the separation, including a description and whereabouts of significant relatives or siblings if appropriate;
- 3.H.2 When presenting information to the family, video tapes or colored snapshots of the child should be shared with the family. Video tapes are an excellent tool for presenting the family with a realistic picture of the child and should be used whenever possible, particularly for children with developmental disabilities;

- 3.H.3 Explore the family's resources and ability to meet any special needs of the child, including the need for adoption assistance.
- 3.H.4 At the conclusion of the interview, a decision should be reached about the family's readiness to see the child or about their need to think through their decision further. One of the most prevalent fears of adoptive families is that if they decide against adopting a certain child it may hurt their chances of being offered another child. Adoptive parents must be encouraged to speak honestly about the child offered and to share any concerns they may have with the worker. The concerns can then be dealt with and a joint decision reached, without fear that a negative decision will be held against them for further consideration of other children.

OASIS: Oasis provides an Affidavit of Disclosure report. This report is created from the path: Workload, Adopt, Affidavit. The report is printed from the path: Workload, Reports, Affidavit of Disclosure. Two copies should be printed. Both copies are signed by the worker, the supervisor and the adoptive parents. Both should be notarized.

3.H.5 Tax Credits

Agencies are required to inform prospective adoptive parent(s) that a child who is in foster care with a local department of social services is potentially eligible for a Federal tax credit under section 23 of the Internal Revenue Code of 1986 (P.L. 110-351). Adoptive parents are, in some cases, eligible for tax credits for qualifying expenses incurred to adopt a child. Adoptive parents should consult with the Internal Revenue Service (www.irs.gov) and professional tax preparers for more information.

3. I Preparing The Child For The Family

- 3.I.1 The child should be given information and pictures about the prospective family prior to the initial meeting. Even very young children seem to know when they are meeting a family that might adopt them and should be told the truth about the reasons for the visits;
- 3.I.2 The child should be told that the family is being evaluated by the worker as a possible family for him, rather than told that he is being evaluated by

the family. The meeting place for the first visit should be one in which the child will feel comfortable;

3.1.3 If the child's worker will not be supervising the placement, it is important for the child to also meet the family's worker.

3. J Submitting an Adoption Progress Report to Court

Federal laws require that reasonable efforts be made to locate an adoptive family and that these efforts be documented. State law requires that an Adoption Progress Report be submitted to the juvenile court every six months following termination of parental rights until the adoption is final.

Section 475. (1) (E), of the Social Security Act. The case plan shall include... (E) In the case of a child with respect to whom the permanency plan is adoption, documentation of the steps the agency is taking to find an adoptive family, to place the child with an adoptive family, and to finalize the adoption. At a minimum, such documentation shall include child specific recruitment efforts such as the use of State, regional, and national adoption exchanges including electronic exchange systems.

[Section 16.1-283. F](#), *Code of Virginia*. The local board or licensed child-placing agency.... shall file a written report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child. The court may schedule a hearing on the report with or without the request of a party. A hearing will be held on the second six month plan.

The Adoption Progress Report (032-02-0230-00-eng) is the instrument that is used to document these two requirements. The Adoption Progress Report shall address the following issues:

3.J.1 When the child is not in an adoptive placement at the time of the progress report:

3.J.1.1 Statements affirming that the agency has been diligent in implementing the agency's case plan to permanently place the child, including:

J.1.1.1 The child was registered on the Adoption

- Resource Exchange of Virginia (AREVA) within 60 days of termination of parental rights.
- J.1.1.2 Consent has been provided for the child to be registered with the National Adoption Exchange Association by the AREVA staff and featured in any media deemed appropriate to locate an adoptive family.
- J.1.1.3 All families referred have been considered for this child, regardless of race, color, or national origin.
- J.1.1.4 All families referred have been considered for this child, regardless of geographical location of the adoptive parents.
- J.1.1.5 The agency has discussed adoptive placement with appropriate relatives.
- J.1.1.6 The agency has discussed adoption placement with the foster parents.
- J.1.1.7 The agency has consulted with community organizations, such as the One Church, One Child Program, if appropriate.
- J.1.1.8 The agency made prompt arrangements with specialized adoption agencies to purchase services needed to achieve the goal of adoption, if required.
- J.1.1.9 The agency has discussed a cooperative adoption arrangement with the prospective adoptive family, if appropriate.
- J.1.1.10 The agency has consulted with and used the resources available through the Partnership for People with Disabilities, if appropriate.

- J.1.1.11 The agency completed appropriate adoption **assistance** arrangements, if applicable.
- J.1.1.12 The agency assisted the prospective adoptive parents with legal help to initiate the adoption proceedings.
- J.1.1.13 Efforts made during the previous six months to locate an adoptive family for the child. These efforts shall correspond to the affirmation statements checked above.
- J.1.1.14 Barriers to placing the child in an adoptive home, include the child's special needs and all other barriers.
- J.1.1.15 The services provided to prepare the child for adoption.
- J.1.1.16 The number of adoptive home studies completed or received by the agency for consideration for this child.
- J.1.1.17 Efforts that will be made during the next six months to achieve adoption for this child.

3.K.2 When the child is in an adoptive placement at the time of the progress report:

- 3.K.2.1 The date the child was placed in the adoptive home.
- 3.K.2.2 The date the adoption assistance agreement was signed.
- 3.K.2.3 The status of the placement, such as the time remaining in the supervisory period, that the agency has issued consent, or that the adoption petition has been filed.
- 3.K.2.4 A statement as to whether the agency assisted the adoptive parents in legal costs associated with finalization of the adoption through non-recurring expenses.

3.K.2.5 The date of adoption finalization.

A copy of the Adoption Progress Report will be sent by the court to the guardian ad litem for the child. The agency is responsible for submitting a copy of the Adoption Progress Report to the appropriate Regional Program Specialist.

OASIS: The Adoption Progress Report is in OASIS, and is printed from the path: Workload, Case Plan, Pre-Adopt, Progress Report for reports before adoptive placement. For reports after adoptive placement, it is printed from the path: Workload, Adopt, Progress Report.

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SECTION 4 PLACEMENT SERVICES

After social and medical information about a child has been shared with the adoptive family, the family decides to pursue placement of the child, and the child has been prepared for the family, visits begin.

4.A Visits Between The Child And The Family

- 4.A.1 There is no standard number of visits that is required before the child moves into the adoptive home, but it is important to take visits slowly enough for everyone's comfort. The spacing, number of visits, and length of visits usually depends on the age and needs of the child and the needs of the adoptive family. A younger child may need several visits scheduled closely together over a short period of time. An older child can remember a family from one visit to the next, so visits could be spaced further apart.
- 4.A.2 Follow-up interviews are held with the child and foster parents to learn the child's initial reactions to the prospective adoptive family. Older children must be given an opportunity to talk about their impressions of the family and must be given continued support during this time. The foster parents need to be prepared for the child's reactions to a possible move and should be used to help the child move toward adoption in a positive manner.
- 4.A.3 Follow-up interviews are also held with the prospective adoptive parents to determine their reaction to the child. If the family decides against adopting the child, the worker must help the child understand why placement did not work out so that feelings of rejection are not left unresolved.

4.B Assistance Needed By The Family And The Child

- 4.B.1 Both parents and child need help in this period in assessing readiness for adoption. Taking on family relationships can be very frightening to an older child and the child may need help again in accepting the loss of the birth family and foster parents.
- 4.B.2 Cooperation of foster parents is essential in helping the child to move into new relationships. Adoptive parents may need help in not feeling threatened by the foster parents, if the child needs to continue some contact with them. During the pre-placement visiting, in the process of

going from the old to the new, the child very often will talk more directly about birth parents and previous foster homes, and resort to some earlier behaviors including enuresis, thumb sucking, etc.

- 4.B.3 A meeting between the adoptive parents and the foster parents during the placement process should be arranged if it would be helpful to the child, providing the two sets of parents can be accepting of each other. A meeting will provide an opportunity for the adoptive parents to talk with the foster parents and to see the child's present situation.

4.C Placement Procedures

- 4.C.1 When the child's worker feels that the child is ready to move and the adoptive parents are ready for placement, arrangements are made for the move. If this is not a local placement, it is important to keep the agency who will supervise informed of developments in the situation.

If it is to be an interstate placement, approval for placement must be secured through the Interstate Office in the Division of Family Services. Arrangements should be made with the supervising agency to provide post-placement services before a placement agreement is signed.

OASIS: An adoptive family case record is created when a child is placed into an approved adoptive resource with a signed adoptive home agreement. Children should be entered under their adoptive name. OASIS path: Workload, Case.

- 4.C.2 The following forms must be completed at the time of placement:

- 4.C.2.1 The Placement Agreement - Adoptive Home. This form must be signed on the date the adoptive placement begins. Even if the child was living in the home on a foster care basis, this agreement must be signed to show that the placement has changed to an adoptive placement. The foster care placement date may still be considered the date of placement in the home for purposes of meeting legal timeframes (See Part 5 for visitation requirements).
- 4.C.2.2 The Adoption Assistance Agreement (032-02-0062-03-eng) - if the family is to receive subsidy. This form should be

signed and approved at the time of placement, but must be signed and approved before entry of the final order of adoption. An Adoption Assistance Agreement is also needed if the family is requesting reimbursement for non-recurring expenses such as agency fees, visitation prior to placement, court costs or attorney fees directly related to finalizing the adoption.

4.C.3 Consolidate Records

If the agency is maintaining hard copies of records, the adoptive parents' record must be made a part of the child's record. If the agency wants to keep a **separate** record on the adoptive parents, copies of pertinent documents may be made for inclusion in the child's record.

4.C.4 Cross Reference The Records Of Siblings

Each child's record must indicate where the home study and other material, pertinent to all siblings, have been filed. This material includes documents and data on the birth parents and relatives. All materials must be sent to the Adoption Reports Unit in the Foster Care, Adoption, and Family Preservation Unit for microfilming after the adoption has been finalized.

4.C.5 Affidavit of Disclosure (032-02-0650-00-eng)

Upon placement, the agency **must** have the adoptive family sign a statement that information has been shared with them. The statement should specify the type of information shared including information about the family's right to appeal. A copy of the statement **must** be maintained in the child's record.

OASIS: Oasis provides an Affidavit of Disclosure report. This report is created from path: Workload, ADOPT, Affidavit. The report is printed from path: Workload, Reports, Affidavit of Disclosure. Two copies should be printed. Both copies are signed by the worker, the supervisor and the adoptive parents. Both should be notarized.

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SECTION 5 POST-PLACEMENT SERVICES

Services provided after the child has been placed in the adoptive home are post-placement services. These include:

5.A Providing adoption assistance payments

Subsidy payments may begin as soon as the child is placed in the adoptive home, the adoptive home placement agreement has been signed, and the adoption assistance agreement has been signed.

OASIS: The funding source must be updated in OASIS. In the foster care case, the path is: Workload, Client, Finances, Funding. In the adoption case, the path is: Workload, Adopt, Subsidy.

5.B Minimum finalization requirements. The *Code of Virginia* sets forth specific minimum requirements for finalization of adoption. These minimum requirements are:

5.B.1 [Section 63.2-1210.3](#) Code of Virginia. After receipt of the report required by Section 63.2-1208, if the child has been placed in the physical custody of the petitioner by a child-placing agency and (i) the placing or supervising agency certifies to the circuit court that the child lived in the physical custody of the petitioner continuously for a period of at least six months immediately preceding the filing of the petition and has been visited by a representative of such agency at least three times within a six-month period, provided there are not less than ninety days between the first and last visit, and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper. The circuit court may, for good cause shown, in cases of placements by a child-placing agency, omit the requirement that the three visits be made within a six-month period.

5.B.2 [Section 63.2-1212, A](#). Visitations during probationary period and report. **Whenever practicable, such visits shall be made within the six-month period immediately following the date upon which the child was placed in the physical care of the adoptive parents or entry of the interlocutory order; however no less than ninety days shall elapse between the first visit and the last visit.**

In the situation where a child is placed by an agency in another state or by an agency, court, or other entity in another country, the local director or licensed child-placing agency, which ever agency completed the home

study or provided supervision, shall cause or have caused the child to be visited at least three times within a period of six months by an agent of the local board, department or licensed child-placing agency (Section 63.2-1212.)

5.B.3 [Section 63.2-1212, B](#). The three supervisory visits...shall be conducted in the presence of the child. At least one such visit shall be conducted in the home of the petitioners in the presence of the child and both petitioners, unless the petition was filed by a single parent or one of the petitioners is no longer residing in the home.

5.B.4 If the child is being adopted by foster parents, the length of time the child has resided in the physical custody of the foster parents can be counted from the date of the foster care placement. Any visits made during the foster care placement may also be counted if they meet the above requirements. The petition for adoption may be filed any time after the visitation requirements have been met.

5.B.5 Children who have special needs require more frequent visitation in order to meet the needs of the child and family.

OASIS: Supervisory visits are record in OASIS. The path is: Workload, Adopt, Visits.

5.C Sending reports of supervisory visits to the placing agency. This applies only if the placement is being supervised by an agency other than the placing agency. Reports should be sent to the placing agency as soon as possible after each visit. If the child is placed out-of-state, reports are sent to the Interstate Office for forwarding to the other state. When supervisory visits indicate there is a problem:

5.C.1 The placing agency must be advised promptly;

5.C.2 The child cannot be removed from the adoptive home without the consent of the adoptive parents unless the following occurs:

[Section 63.2-1207](#), *Code of Virginia*, provides that the child cannot be removed from the adoptive home without the consent of the adoptive parents unless:

5.C.2.1 the juvenile or circuit court orders the child's removal or

5.C.2.2	the child is being mistreated, neglected or subjected to unwholesome influences.
5.C.2.3	The adoptive parents have the right to petition the court for a review of the removal.

If the adoptive parents consent to the removal of the child, the agency should get the consent in writing.

5.D Foster care services continued after adoptive placement. Foster care services to be continued include:

5.D.1 Medicaid. The Medicaid card should remain in effect until entry of the final order of adoption if the child is being adopted without adoption assistance. Although the adoptive parents are normally financially responsible for the child after placement, situations may arise where the child's medical expenses are extraordinary and Medicaid can be used to assist with these expenses.

5.D.2 Since the child is technically in foster care until the entry of the final order of adoption, the child continues to be eligible for CSA funding for foster care services, if they are required.

5.D.3 Yearly foster care review hearings alternating with administrative panel reviews or court reviews, every six months until entry of the final order of adoption.

5.D.4 If the child is receiving SSI, the SSI payment should be used during the adoptive placement instead of an adoption assistance payment. Efforts should be made to expend SSI funds accumulated in a special welfare account on behalf of the child before finalization. Any unexpended SSI funds should be returned to the Social Security Administration (SSA).

5.D.5. If the child is receiving other types of payments, such as SSA, a change in payee must be initiated by the worker.

5.D.6 Other services as needed on a case by case basis.

5.E Finalizing the Adoption.

The finalization process begins when it is mutually decided the adoptive parents are ready to file their petition to adopt the child. The process then involves getting legal representation, signing the consent, filing the petition and submitting a report to court. This process is described below:

5.E.1 When To File

The decision to file must be made jointly by the agency and adoptive parents. The visitation requirements must have been met.

5.E.2 Legal Representation

Explain to the adoptive parents that adoption is a legal process and the services of an attorney may be needed. Some circuit courts do not require representation by an attorney and the adoptive parents may want to explore this option. CSA funds may be used to help the adoptive parents who are adopting without subsidy with attorney fees and court costs, if the adoptive parents cannot afford to pay for these expenses. For children being adopted with adoption assistance, payments for non-recurring expenses can be for legal expenses directly related to finalization of the adoption.

Section 473, (B) of the Social Security Act, states that the state shall make payments of nonrecurring adoption expenses incurred by or on behalf of adoptive parents in connection with the adoption of a special needs child.

5.E.3 Consent

5.E.3.1 Signing Consent

The agency superintendent/director or the Board Chairman signs the consent. Provide the attorney representing the adoptive parents with a copy of the consent. If the adoptive parents do not have an attorney, the consent must be sent directly to the court where the petition is to be filed.

[Section 63.2-1202, A](#), *Code of Virginia*, states that no petition for adoption shall be granted....unless written consent to the proposed adoption is filed with the petition. Such consent shall be in writing, signed under oath

[Section 63.2-1202, C, 3](#), *Code of Virginia*, specifies that consent must be filed by the...local board of social services having custody of the child, with the right to place him for adoption, through court commitment.....

5.E.4 Counseling of Birth Parents

A statement affirming that the birth parent(s) received counseling concerning the decision to place the child for adoption should be sent to the attorney representing the adoptive parents along with the agency's consent. If the adoptive parents do not have an attorney, this statement must be sent to the court along with the agency's consent.

[Section 63.2-1224](#), *Code of Virginia*, requires that prior to placement of a child for adoption, the ...local board having custody of the child shall counsel the birth mother or, if reasonably available, both birth parents, concerning the disposition of their child.

5.F Petition

The agency is not responsible for filing the petition, but the agency should know the procedures for filing. These procedures are:

5.F.1 Who May File

A petition may be filed by a single person or a married couple.

[Section 63.2-1201](#), the *Code of Virginia*, states that in the case of married persons, the petition shall be the joint petition of the husband and wifeIf any procedural provision of this chapter applies to only one **of the** adoptive parents, then the court may waive the application of the procedural provision **for the** spouse of the adoptive parent **to whom the provision applies**.

5.F.2 Any person who has been convicted of any violent sexual offense or who is required to register on the sex offender or crimes against minors' registry cannot file a petition to adopt.

[SECTION 63.2-1205.1](#), *Code of Virginia*. No petition for adoption shall be granted if the person seeking to adopt has been convicted of a sexually

violent offense or an offense requiring registration pursuant to Section 9.1-902.

5.F.3 Where To File

5.F.3.1 If the adoptive parents reside in Virginia:

[Section 63.2-1201](#), *Code of Virginia*, states that the petition may be filed in the circuit court where they reside or in the county or city in which the child-placing agency that placed the child is located. Such petition may be filed by any person who resides in the Commonwealth....

5.F.3.2 If the adoptive parents reside outside Virginia:

[Section 63.2-1201](#), *Code of Virginia*, allows the petition to be filed ...the circuit court...in the county or city which the child-placing agency that placed the child is located....

If the adoptive parents decide to file the petition outside of Virginia, the laws and procedures of the other State apply. The placing agency must provide copies of any documents or reports which may be required by the other state to finalize the adoption.

5.F.4 What To Include

The law indicates how the petition is to be prepared:

[Section 63.2-1201](#), *Code of Virginia*, specifies that the petition must contain a full disclosure of the circumstances surrounding how the child came to live and is living, in the home of the petitioner.

[Section 63.2-1227](#), *Code of Virginia*, specifies the petition must be filed in the name by which the child will be known after adoption, provided the name is followed by the registration number of the child's original birth certificate and the state or country in which the registration occurred... The petition shall not state the birth name of child or identify the birth parents unless it is specifically stated in the agency's consent that the parties have exchanged identifying information. ... A single petition for adoption... shall be sufficient for the concurrent adoption

by the same petitioners of two or more children, who have the same birth parent or parents...

5.F.5 Filing A Petition For A Child When A Child Is Nearing Age 18

The law indicates that with the adoptee's consent there is no impact on the petition if they turn 18 years of age between the time the petition for adoption is filed and the time the final order is entered.

Section 63.2-1201.A, *Code of Virginia*, specifies that a petition filed while the child is under 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption. Any final order of adoption entered pursuant to §63.2-1213 after the child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect as if the child was under 18 years of age at the time the order was entered by the circuit court provided the court has obtained the consent of the adoptee.

5.G Acknowledgment

The agency must acknowledge copies of any court papers received.

[Section 63.2-1228](#), *Code of Virginia*, states that the court shall forward copies of the petition, exhibits and order of reference to the Commissioner and to the agency which placed the child.

Exhibits are any documents filed with the petition such as the consent and the agency's statement that the birth parents have received counseling.

The order of reference is the document that orders the agency to investigate the petitioner(s) home and submit a report of the investigation. It is signed by the Judge and the date he signs it is considered the petition filing date.

A copy of the Commissioner's Confidential Report will be sent to the placing agency. This form is returned to the Adoption Unit with a copy of the Report of Investigation. An explanation of the Report of Investigation is provided below.

5.H Initial Report Of Investigation

The agency must prepare and submit a Report of Investigation to the court.

5.H.1 What To Include:

[Section 63.2-1208](#), Code of Virginia, states that the investigation shall include:

- 5.H.1.1 whether the petitioner is financially able, morally suitable, and a proper person to care for and train the child, whether the child is receiving adoption assistance;
- 5.H.1.2 the physical and mental condition of the child;
- 5.H.1.3 why the parents, if living, desired to be relieved of the responsibility for the custody, care and maintenance of the child, and/or what their attitude was toward the plan of adoption at the time their parental rights were relinquished or terminated;
- 5.H.1.4 whether the parents abandoned the child or were morally unfit to have custody over him;
- 5.H.1.5 the circumstances under which the child came to live and is living in the physical custody of the petitioner. Include statements certifying that the child has lived in the physical custody of the petitioners continuously for a six months prior to the filing of the petition and has been visited at least three times within a six month;
- 5.H.1.6 whether the child is a suitable child for adoption by the petitioner;
- 5.H.1.7 what fees, if any, have been paid by the petitioners or on their behalf to persons or agencies which have assisted them in obtaining the child.
- 5.H.1.8 the physical and mental health of the petitioners;
- 5.H.1.9 the physical and mental health of the birth family;
- 5.H.1.10 documentation of all efforts made to encourage birth parents to share information related to their physical and mental history; and
- 5.H.1.11 a statement by the child-placing agency or local director that all reasonably ascertainable background, medical, and psychological records of the child have been provided to the prospective adoptive parent(s).

Refer to the Checklist for report of Investigation at 5.K.

5.H.2. When To Submit The Report of Investigation

The agency has within sixty (60) days after receipt of the court documents to complete the Report of Investigation.

[Section 63.2-1208 B](#), *Code of Virginia*, Upon receiving a petition and order of reference from the circuit court, the applicable agency shall make a thorough investigation of the matter and report thereon in writing, in such form as the Commissioner may prescribe, to the circuit court within 60 days after the copy of the petition and all exhibits thereto are forwarded. A copy of the report to the circuit court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the circuit court. On the report to the circuit court there shall be appended either acceptance of service or certificate of the local director, or the representative of the child-placing agency, that copies were served as this section requires, showing the date of delivery or mailing. The circuit court shall expeditiously consider the merits of the petition upon receipt of the report.

5.H.3 Distribution of the Report of Investigation

The agency must prepare four (4) copies of the Report of Investigation. These copies are sent as follows:

- 5.H.3.1 The original is sent to court with a Certificate of Service;
- 5.H.3.2 One copy is sent to the attorney; and
- 5.H.3.3 One copy of the report is sent to the Adoption Unit, along with:
 - H.3.3.1 a completed Commissioner's Confidential Report;
 - H.3.3.2 copies of Permanent Entrustment Agreements for Permanent Surrender of Child (032-02-024-3) and/or commitment orders; and
 - H.3.3.3 a copy of Certificate of Service.
- 5.H.3.4 One copy is kept in the case file.

[Section 63.2-1208](#), *Code of Virginia*, states that a copy of the report to the court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the court. On the report there shall be appended either acceptance of service or certificate of the local director of social services...that copies were served....

Do not send a copy to the adoptive parents. If they do not have an attorney, advise them to contact the clerk of court to have their case placed on the docket for disposition.

OASIS: OASIS provides a screen for recording and printing information on the court report. The path is: Workload, Adopt, Court Rpt.

5.I Obtaining The New Birth Certificate

Once a final order of adoption is entered, the Office of Vital Records will seal the child's original birth certificate and establish a new birth certificate for the child.

- 5.I.1 The placing agency is responsible for completing the VS-21, Report of Adoption. This form can be obtained from the Clerk of Court or the Office of Vital Records. Send it to the court at the same time the Report of Investigation is sent.
- 5.I.2 When the original name, date and place of birth, name of birth parent(s), and file number of the child's original birth certificate are entered in Part 1 of the VS-21, information concerning birth parents, hospital, and attendant need not be entered. All other items must be completed on the report.
- 5.I.3 If the child was born outside of the State of Virginia, but within the United States, Office of Vital Records will forward the VS-21 to the appropriate State Registrar. The petitioners' attorney should contact that State Registrar about the procedures for issuing a new certificate.
- 5.I.4 The Office of Vital Statistics shall establish a Virginia birth certificate for a person born in a foreign country and for whom a final order of adoption has been entered in a Virginia court, when the following is received:

- 5.1.4.1 a completed VS-21 and a completed VS-6, Application for a Certified Copy of a Birth Record form;
- 5.1.4.2 a check for the required fee; and
- 5.1.4.3 a request that such certificate be established in Virginia. The Office of Vital Records will send a copy of the VS-21 to the appropriate federal agency.

[Section 32.1-262, A](#) , *Code of Virginia*, states that for each adoption decreed by a court in this Commonwealth, the court shall require the preparation of a report of adoption on a form furnished by the state registrar. The report shall (i) include such facts as are necessary to locate and identify the original certificate of birth of the person adopted or, in the case of a person who was born in a foreign country, evidence from sources determined to be reliable by the court as to the date, place of birth and parentage of such person; (ii) provide information necessary to establish a new certificate of birth of the person adopted; and (iii) identify the order of adoption and be certified by the clerk of court.

[Section 32.1-262, B](#), *Code of Virginia*, states that...in all cases where a child is placed for adoption by a child-placing agency, the report shall be completed and filed with the court by a representative of the agency. A final order of adoption shall not be entered until the information required by this section has been furnished unless the court, for good cause shown, finds the information to be unavailable or unnecessary.

5.J Changing the Social Security Number

When a child is adopted, the Social Security Administration (SSA) will generally assign another Social Security Number (SSN) to the child in the child's new identity if requested by the adoptive parents. SSA will not assign a child a new number if the child is receiving Social Security benefits or SSI payments; has worked; is adopted by a step-parent or other relative; or knows they are adopted. In these instances, SSA updates the child's record to show the new identifying information and issues a corrected card with the child's name but original SSN. To apply for a new SSN for an adopted child, the adoptive parent must complete an Application for a Social Security Card.

Further guidance on obtaining new numbers and Application for a Social Security Card, is available at the SSA website, www.ssa.gov/online/ss-5.html. The application can also be obtained by calling 1-800-722-1213 or visiting a local SSA office.

5.K. Checklist for Report of Investigation

1. Verification of child's name, and date and place of birth with birth registration number
2. Petitioner(s):
 - Race
 - Age
 - Verification of marriage
 - Verification of termination of marriage(s)
 - Children
 - Education
 - Employment
 - Physical and mental health
 - Religion
 - References
 - Finances
 - Income
 - Savings and investments
 - Debts
 - Property value
 - Home
 - Size
 - Location
 - Standards
 - Occupants
 - Personalities
 - Marital relationship
3. Child:
 - Birth history
 - Development and placement experiences
 - Health
 - Personality
 - School grade
 - Family relationships
 - Medical and psychological records

Checklist for Report of Investigation
(continued)

4. Birth parents:

- Verification of mother's marital status at time of child's conception and birth
- Verification of a parent's death
- Separation from and planning for child, opportunity for counseling
- Age and race
- Education
- Employment
- Physical and mental history, including current health
- Physical description
- Personality
- Relationship between parents
- Family relationships

5. Consent:

- Proper identification of child and petitioner
- Date of consent
- Date, place and method of custody received
- Date of placement

6. Placement:

- Circumstances surrounding the child's placement
- Date of placement
- Fees paid regarding placement

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SECTION 6 POST-ADOPTION SERVICES

Post adoption services are services that are provided to adopted children and their adoptive families after the entry of the final order of adoption. Post adoption services include:

- 6.A Providing notice to adoptive parents of the need for submission of the annual subsidy affidavit.

The agency is responsible for sending a letter to the adoptive parent(s) informing them that the affidavit is due and requesting that it be provided by the deadline. The agency must send the letter to the adoptive parent(s) two months before the affidavit is due (See Part 8).

Title IV-E, Section 473 (a) (4), of the Social Security Act, requires that...parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program informed of circumstances which would...make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

---OASIS: To track the affidavit notice and other documents, the path is: Workload,
---Other, Doc. Trkg.---

- 6.B Preserving Information From Foster Care And Adoption Records

State law gives the Commissioner of the Department of Social Services the responsibility for preserving adoption records.

[Section 63.2-1246](#), *Code of Virginia*, states that upon entry of a final order of adoption or other disposition of the matter, the clerk of the court in which it was entered shall forthwith transmit to the Commissioner all reports made in connection with the case, and the Commissioner shall preserve such reports and all other collateral reports, information, and recommendations in a separate file.

The court will send a copy of the final order of adoption to the agency and to the Adoption unit. The agency must acknowledge receipt of the order. When the agency receives a copy of the final order of adoption, the agency is to send information to be preserved to the Adoption Unit within 30 days.

[Section 63.2-1246](#), *Code of Virginia*, requires upon entry of a final order of adoption or other final disposition of a matter involving the placement of a child by a licensed child-placing agency or a local board of public welfare or social services or an investigation by the local director or superintendent of a placement for adoption of a child, the agency or local board shall transmit to the Commissioner all reports and collateral information in connection with the case.

The material to be preserved is to include data and documents pertaining to the child, the birth parents and relatives, and the adoptive parents. This material is taken from the birth parent's record and the child's protective services, foster care, and adoption records.

6.B.1 Material sent to the Adoption Unit:

6.B.1.1 Materials should be placed in folders and labeled with the Virginia Adoption Case Number. All names by which the child may have been known should be shown on the front of the folder. These names include:

- B.1.1.1 The child's original name.
- B.1.1.2 The child's adoptive name.
- B.1.1.3 Agency code names for the child.
- B.1.1.4 Any other names by which the child has been known.

6.B.1.2 Materials must be originals and should include:

- B.1.2.1 All medical and psychological reports on the child and birth family.
- B.1.2.2 All verifications of births, deaths, divorces, and marriages.
- B.1.2.3 Original letters of reference
- B.1.2.4 Copies of letters to legal/birth parents and the envelopes, if returned by the post office.

- B.1.2.5 Original letters from legal/birth parents.
 - B.1.2.6 Background summaries and reports to Juvenile and Domestic Relations Courts.
 - B.1.2.7 All legal documents concerning the child's custody.
 - B.1.2.8 Foster care face and placement sheet.
 - B.1.2.9 Adoptive home placement agreement.
 - B.1.2.10 Summary of CPS initial safety assessment and risk assessment.
 - B.1.2.11 Case narrative material from foster care and adoption records.
 - B.1.2.12 Copy of the statement of information shared with adoptive family, including information on the family's right to appeal.
 - B.1.2.13 Documentation or information from The Virginia Putative Father Registry
- 6.B.1.3 Records must be purged of all duplicate and non-pertinent material and staples removed before it is sent to the Adoption Unit. Before purging the non-pertinent material, review carefully the material that must be maintained in the child's subsidy record (See Part 8) and the material that must be kept for Title IV-E reviews. If purging is not done, the record will be returned to the agency for the removal and destruction of all duplicate material. Materials to be purged include:
- B.1.3.1 Miscellaneous correspondence, letters, acknowledgments and requests for status of reports.
 - B.1.3.2 Duplicates and extra copies of material. These

could be copies of material which the agency knows the Adoption Unit already has such as the Report of Investigation, the adoption petition; the Certificate of Service, and the Order of Reference.

B.1.3.3 Case narrative that does not contain specific factual information relative to the child's background.

B.1.3.4 Baby pictures, baby hospital bracelets, greeting cards and other personal mementos. These should be given to adoptive parents after identifying information has been deleted.

B.1.3.5 Service application forms.

6.B.1.4 If the child's adoption was finalized outside the State of Virginia, the placing agency must observe the requirements of the other state regarding case material and documents to be sent for preservation.

6.B.2 Material Retained In The Agency

6.B.2.1 In an agency placement, the placing agency must keep copies of the following material for federal IV-E foster care and IV-E adoption assistance reviews:

B.2.1.1 All court orders, service plans, panel reviews, documents pertaining to AFDC-FC eligibility and dispositional plans must be maintained on children who are adopted. This material is to be retained for five years after the child's 18th birthday.

B.2.1.2 If the child was adopted with a subsidy of any kind, keep all forms, reports and documents concerning the child's special needs, the adoptive family's circumstances, and eligibility for IV-E adoption assistance. This material

must be kept in a separate file for five years after the child's 18th birthday.

6.B.2.2 If the child's adoption was finalized in another state, the material identified in 6.B.2.1 above must be maintained by the placing agency.

6.B.2.3 In an agency placement, the placing agency may keep copies of any material sent to the Adoption Unit for preservation.

6.C Releasing Information From Closed Adoption Records

Access to information in closed adoption records is governed by Virginia law. There are different types of information in a closed adoption record and access to the different types of information is limited to specific individuals.

6.C.1 Non-identifying Information

Non-identifying information is generally defined as that information which does not identify the birth family. However, there is additional case material (trace information) that may need to be edited from the record. For specific guidelines, refer to the guide material entitled "Preparation of Non-identifying Case Material." This guide material is available from the Adoption Unit.

In the event that the adult adoptee also wants any information on the adoptive parents (like the home study or report of investigation), the adult adoptee needs a notarized consent from either adoptive parent on whom the information is requested or a death certificate for that person.

Who May Have Access to Non-Identifying Information

6.C.1.1 Access to non-identifying information in the sealed record.

The adoptee after turning 18, the adoptive parents any time after entry of the final order, and child-placing agencies providing services to the child may have access to non-identifying information from the closed adoption record.

[Section 63.2-1246](#), *Code of Virginia*, states thatnon-identifying information from...adoption files shall not be open to inspection, or be copied, by anyone other than the adopted person, if eighteen years of age or over, or licensed or authorized child placing agencies providing services to the child or the adoptive parents.

- 6.C.1.2 The exchange of non-identifying information and pictures between the birth and adoptive parents.
Written permission must be obtained from the adult adoptee/adoptive parent(s) if the information is to be sent to any agency other than the one initially involved in the adoption, a doctor, psychiatrist, or psychologist. A release of this sort is not required if the information is being sent to the agency that placed the child.

[Section 63.2-1247, D](#), *Code of Virginia*, states that in cases where at least one of the adoptive parents and one of the birth parents agree in writing to allow the agency involved in the adoption to exchange non-identifying information and pictures, the agency may exchange this information with such adoptive parents and birth parents when the whereabouts of the adoptive parents and birth parents is known or readily accessible. Such agreement may be entered into or withdrawn by either party at any time or may be withdrawn by the adult adoptee.

- C.1.2.1 If the agency that was involved in the adoption is willing, the agency may act as an intermediary for the purpose of exchanging pictures and non-identifying information, such as letters.
- C.1.2.2 This action occurs only if the addresses of the parties are known or easily obtainable. The agency is not required to conduct a search, as it would for the exchange of identifying information.
- C.1.2.3 The role of the Adoption Unit in this exchange of pictures and non-identifying information is to send the agency any information needed from the sealed record to help locate the appropriate parties.

6.C.2 Critical Medical Information

In some cases, critical medical information can be shared between the birth and adoptive families.

[Section 63.2-1247, C](#), *Code of Virginia*, states that in any case where a physician or licensed mental health provider submits a written statement in response to a request from the adult adoptee, adoptive parent, birth parent or adult biological siblings, indicating that it is critical that medical, psychological or genetic information be conveyed, and states clearly the reasons why this is necessary, the agency....shall make an attempt to inform the adult adoptee, adoptive parents, birth parents, or adult biological siblings...of the information.

- 6.C.2.1 A physician or licensed mental health provider must submit a written statement, in response to a request from one of the individuals specified above indicating that it is critical that medical, psychological or genetic information be conveyed, and that states clearly the reasons why this is necessary.
- 6.C.2.2 The letter from the physician or licensed mental health provider must indicate that he/she is acting at the request of the adult adoptee, adoptive parent, birth parent, or adult birth sibling unless this has been clarified in writing by whomever is making the request.
- 6.C.2.3 Confidentiality of all parties shall be maintained by the agency which means that identifying information cannot be shared.
- 6.C.2.4 The placing agency is responsible for attempting to find the parties and passing the information along. The agency should verify that:
 - C.2.4.1 the letter clearly states that the physician or licensed mental health provider is acting at the request of one of the specified individuals, and,
 - C.2.4.2 the letter clearly indicates that it is critical that the information be conveyed and

states clearly the reasons why this is necessary.

- 6.C.2.5 The role of the Adoption Unit in this exchange of critical information is to send the agency any information needed from the sealed record to help locate the appropriate parties.

6.C.3 Identifying Information

Identifying information is information that identifies the adoptee or birth family. It includes “trace” information that may lead to the identity of the birth family.

Who May Have Access To Identifying Information

- 6.C.3.1 Virginia law allows adoptees who are 18 or older to make an application for disclosure to the Commissioner.

[Section 63.2-1246](#), *Code of Virginia*, states that no identifying information from ...adoption files shall be disclosed, open to inspection or made available to be copied exceptupon application of the adopted person, if eighteen years of age or over, to the Commissioner...

- 6.C.3.2 Birth parents and adult birth siblings may apply for disclosure if the adoption was finalized on or after July 1, 1994 and the adopted person is at least twenty-one years of age.

[Section 63.2-1247, A](#), *Code of Virginia*, states that in cases where the adoption is finalized on or after July 1, 1994 and the adopted person is twenty-one years of age or over, the adopted person's birth parents and adult birth siblings may apply to the Commissioner for the disclosure of identifying information from the adoption file.

- 6.C.3.3 Adoptive parents may apply for disclosure if the adoption was finalized on or after July 1, 1994 regardless of the age of the adoptee.

[Section 63.2-1247, B](#), *Code of Virginia*, states that in cases where the adoption is finalized on or after July 1, 1994, and the adopted person is under eighteen years of age, the adoptive parents or other legal custodian of the child may apply to the Commissioner for the disclosure of identifying information about the biological family.

6.C.4 Procedures for Disclosure

The Commissioner, through the Adoption Unit, has responsibility for deciding whether information from closed adoption records is released. Local departments of social services and licensed child-placing agencies provide assistance to the Commissioner by conducting searches to locate birth family members and, if requested by the Commissioner, to share information from the closed record.

To initiate a search for birth family members, adult adoptees must complete an Adoptee Application for Disclosure form, have the form notarized and return it to the central office Adoption Unit. The form is accessible for downloading at www.dss.state.va.us.

6.C.4.1 Upon receipt of the Application for Disclosure from the adult adoptee, the Adoption Unit sends a Letter of Appointment to the agency that will be conducting the search. If necessary, a hard copy of the identifying information and a sample format for the Report of Inquiry will be sent with the Letter of Appointment.

6.C.4.2 Upon receiving a Letter of Appointment, the designated agency conducting the search shall:

C.4.2.1 Attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.

C.4.2.2 Conduct the search within 8 months. If the agency needs additional time, the agency shall request the additional time from the Adoption Unit. This request may be made verbally.

C.4.2.3 In situations where there is very little information in the record upon which to begin a search, the agency may ask the Adoption Unit for assistance in obtaining a copy of the child's original birth certificate and hospital records of the child's birth.

- 6.C.4.3 The agency shall send a Report of Inquiry to the Adoption Unit describing the results of the attempt to locate and advise the birth family member(s) of the Application for Disclosure.
- C.4.3.1 The agency's report shall be in the format prescribed by the Commissioner and shall not include identifying information on the birth family.
- C.4.3.2 No identifying information is to be disclosed to the adoptee without proper authorization from the Commissioner.
- C.4.3.3 Resources used to locate the birth family member(s) should be fully documented in the agency's Report of Inquiry in those cases where agency efforts were unsuccessful.
- C.4.3.4 If the birth family member(s) about whom the adoptee wants identifying information can be located, the agency's Report of Inquiry shall include updated non-identifying information about that birth parent. The Report should also indicate that parent's wishes regarding having his/her identify disclosed and being contacted by the adoptee.
- C.4.3.5 The agency's Report of Inquiry shall include a recommendation regarding disclosure based on the findings.
- C.4.3.6 If there is a fee, the agency's report shall include a statement indicating the amount of the fees assessed and whether or not the fee has been paid. The Commissioner cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.

- 6.C.4.4 The Commissioner makes the final decision about the release of identifying information and the Adoption Unit will send the agency a Letter of Final Disposition. If the Letter of Final Disposition indicates that the Application for Disclosure is granted, the agency shall share the identifying information with the adoptee.

6.C.5 Opening A Case For Releasing Information

When a request for adoption information is made or the agency receives a Letter of Appointment from the Commissioner to locate a birth family, adoptees or adoptive parents, a case may be opened and reported as foster care and adoption services.

6.D Charging a Fee

Virginia law allows fees to be charged for adoption searches.

[Section 63.2-1248](#), *Code of Virginia*, states ...the agency which attempts to locate the birth family...shall assess a fee against the applicant...in accordance with regulations and fee schedules established by the State Board....

[Section 63.2-1248](#), *Code of Virginia*, states...The fee charged shall not exceed the actual costs of the service. The fee shall be paid to the appropriate department of social services...prior to the...release of identifying information....

Fees are to be determined based on income and family size; and indirect costs to the agency or average costs. The fee schedule established by the State Board is on the following page.

FEE SCHEDULE FOR ADOPTION SEARCHES

The formula is as follows:

1. The agency's fiscal manager must calculate an indirect cost factor that covers expenses other than the direct worker's salary and benefits (such as overhead expenses).
2. Local agencies will record the time the worker spends providing the service. The time spent is to be multiplied by the combined worker's hourly salary and benefits (or an agency average of the worker's hourly salary and benefits) and the indirect costs.

Example:

20 hours (time to provide service)

\$16 (worker's hourly salary and benefits)

Indirect cost factor of 50%

Combined worker's hourly salary and benefits plus indirect costs=
 $\$16 + (\$16 \times 50\% = \$8) = \24

$20 \text{ hours} \times \$24 = \$480$ (To be adjusted for family size and income.)

3. Determine applicant's family size. Include all persons for whom the applicant and his/her spouse are responsible.
4. Determine the applicant's gross monthly income. Include all income available to the family. Accept the applicant's declaration of income.
5. Determine the applicant's percent of median income using the median income scale issued annually in a broadcast. If income falls between two percentages, use the lower figure.
6. Reduce or waive the fee if it finds circumstances that affect the applicant's ability to pay, such as heavy debt, unusual medical or educational expenses, or heavy financial support of relatives.
7. The agency shall report any fees collected as expenditures refunded on its

financial report. The local agency's reimbursement from state and federal funds shall be adjusted to reflect the state and federal share of income collected. Using the percentage of fee scale shown below, determine the fee assessed.

<u>Percentage of Median Income</u>	<u>Calculated Fee To Be Charged</u>
50% and below	0% (No charge)
60%	10%
70%	25%
80%	50%
90%	75%
100%	100%

Example:

The baseline cost of the fee is \$480. Using the median income scale, the fee is adjusted for family size and income. The worker determines that the applicant's annual income falls between 80% and 90% of the median. The worker uses the lower figure of 80%. Using the scale shown above, the worker determines that the applicant should be assessed 50% of \$480 or \$240.

Determination of Direct Costs

In determining direct costs, the local department of social services providing the service has the option of using the actual salary and benefits of the worker performing the service, an average of the salary and benefits, or the minimum salary and benefits.

1. If the actual salary and benefits of the worker performing the service is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging the customer.
2. If some form of averaging is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed.

The method of averaging, which appears to conform with the intent of the statute which talks about the actual cost of the service, would be to average the actual salaries and benefits of the workers performing the services.

Example:

If an agency had a social worker I earning \$15 an hour in salary and benefits, a social worker II also earning \$15 an hour, a social worker III earning \$16 an hour, and a social work supervisor (who also had a normal caseload) earning \$18 an hour, the agency would calculate an average of \$16 an hour.

3. If minimum salary and benefits is chosen, the first step of the compensation schedule for a social worker for the agency is used. The only recalculating would occur when the agency changes/updates the compensation schedule. This method is very simple and will insure that the salary charged will not exceed the actual salary and benefits of the worker performing the service.
4. The agency may use 20 hours as an average, multiply this by the agency hourly costs, factor in family size and income, and charge the applicant that amount in advance.

If the search is completed in less than 20 hours, the agency would return the unexpended funds.

If the search is not completed in 20 hours, the agency can ask the applicant if they should continue the search at the worker's hourly cost (written permission from the applicant is mandatory) or the agency can continue the search but not charge the applicant more than the initial estimated fee which is based on 20 hours of work (this is an option because guidance allows an agency to recommend waiving all or part of the fee in unusual circumstances).

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SECTION 7

ADOPTION RESOURCE EXCHANGE OF VIRGINIA (AREVA)

OASIS: All AREVA information must be entered into OASIS. The path is: Workload, Case Plan, FC, Pre-Adopt, AREVA for a foster care child. For adoptive families, the path is: Resource, Directory, Homes, AREVA.

The Virginia Administrative Code [22 VAC 40-250-20](#) establishes the regulations for AREVA:

The purpose of AREVA is to increase opportunities for children to be adopted by providing services to agencies having custody of these children.

7.A Services provided by AREVA include:

- 7.A.1 Maintaining a registry of children awaiting adoption and approved **families waiting for adoption**.
- 7.A.2 Preparing and distributing a photo-listing of special needs children awaiting adoption and a photo-listing of families awaiting special needs children;
- 7.A.3 Providing information and referral services for children who have special needs to link agencies with other adoption resources;
- 7.A.4 Providing on-going recruitment for waiting children;
- 7.A.5 Providing consultation and technical assistance to agencies in finding adoptive families for waiting children; and
- 7.A.6 Monitoring agency compliance with legal requirements for adoption and state board policy on registering children and families; and
- 7.A.7 Featuring children on Virginia's adoption website, www.adoptUSkids.org/states/va, the Adoption Exchange Association website, www.adoptUSkids.org, as well as other adoption web sites.

7.B Registration requirements

There is a difference between registration with AREVA and featuring in the photo-listing. Procedures for registering children with AREVA are described below:

7.B.1 Registration of Children ([22VAC40-250-20](#))

7.B.1.1 All children **shall** be registered with AREVA within 60 days of termination of parental rights (60 days is counted from the date the order is signed by the judge) if:

B.1.1.1 the goal is adoption;

B.1.1.2 the child is legally free for adoption (the child is not legally free until the final appeal has been heard);

B.1.1.3 the agency has the authority to place for adoption; and

B.1.1.4 adoptive placement has not occurred.

7.B.1.2 The court commitment or permanent entrustment agreement shall be submitted by the agency with the child's registration forms.

7.B.2 Registration of Families

7.B.2.1 Approved families must be registered within 60 days after the date of approval if they are expressing interest in adopting children who are:

B.2.1.1 six years of age and over;

B.2.1.2 members of sibling groups;

B.2.1.3 physically, mentally, or emotionally disabled; or

B.2.1.4 black, biracial, or members of other minority races.

7.C Registration procedures**7.C.1 There are three categories of children registered with AREVA:**

- 7.C.1.1 Children with special needs who will be featured in the photo-listing:
 - C.1.1.1 Complete the AREVA Child's Registration Screen in OASIS.
 - C.1.1.2 Mail to the AREVA Unit copies of court commitments and/or permanent entrustment agreements, and a 5 x 7 color picture (a black and white glossy will be accepted, if necessary). If the picture is other than a professional photograph, it should be a clear and age appropriate representation of the child. A clear shot of the child's face is vital, and where possible, siblings should be photographed together. Avoid identifying clothing and background information. Paper printouts from a digital camera and photocopied reproductions should be avoided, due to difficulty in scanning those media. If it is necessary to have the picture returned, please contact the AREVA Unit prior to mailing. The local agency should pay for yearly school pictures for children in foster care with the goal of adoption and it is preferable that this school picture be submitted to AREVA.
 - C.1.1.3 A current picture and updated information need to be submitted annually.
 - C1.1.4 When pictures and updated information are sent to AREVA staff, the name(s), address, telephone number, fax number and the e-mail address of the assigned workers should be included.
- 7.C.1.2 Children on Deferment from the Photo-Listing Service:

- C.1.2.1 Complete the AREVA Child's Registration screens in OASIS, including the section on the reason for deferment.
 - C.1.2.2 Mail to AREVA copies of court commitments and/or permanent entrustment agreements and color picture.
- 7.C.1.3 Children who do not meet the special needs definition but the worker requests referral of home studies.
 - C.1.3.1 Complete the AREVA Child's Registration screens in OASIS.
 - C.1.3.2 Mail to AREVA copies of court commitments and/or permanent entrustment agreements and color picture.
- 7.C.1.4 Agencies that are not part of the OASIS system can receive printed forms for completion by calling the AREVA Unit at 1-800-DO-ADOPT.

OASIS: Complete the AREVA Child's Registration Screen in OASIS. The path in the foster care case is: Workload, Case Plan, FC, Pre-Adopt, AREVA, Registration.

7.C.2 There are three categories of families registered with AREVA:

- 7.C.2.1 Those interested in children with special needs who will be featured in the photo-listing:
 - C.2.1.1 Complete the AREVA Family's Registration screen in OASIS.
 - C.2.1.2 Mail to AREVA a 5 x 7 color picture of the family, including children (a black and white glossy will be accepted if necessary). If the picture is other than a professional photograph, it should be a clear representation of the family. Paper printouts from a digital camera and photocopied reproductions should be

avoided, due to difficulty in scanning these materials. If it is necessary to have the picture returned, please contact the AREVA Unit prior to mailing. Include copy of the narrative home study for referral purposes.

- C.2.1.3 Include with the picture a printed copy of the last page of the registration form with original signatures of the family.

7.C.2.2 Families for Whom A Deferment Is Being Requested:

- C.2.2.1 Complete the family information tab on the AREVA Family's Registration Screen in OASIS. Include explanation of why deferment is being requested under "Family Narrative."

- C.2.2.2 Submit to AREVA the last page of the registration form with the original signatures of the family.

7.C.2.3 Those families requesting children without special needs will not be featured in the photo-listing:

- C.2.3.1 Complete the AREVA Family's Registration screen in OASIS;

- C.2.3.2 Mail to AREVA a recent picture of the family including children and a copy of the narrative home study for referral purposes. Include a printed copy of the last page (Recruitment tab) with original signatures of the family.

7.C.2.4 Agencies that are not part of the OASIS system can receive printed forms for completion by calling the AREVA Unit at 1-800-DO-ADOPT.

7.C.3 AREVA staff will acknowledge receipt of all registration forms by entering the registration received date in OASIS. Agencies that are not part of the OASIS system can receive acknowledgement from AREVA staff by

including an e-mail address under their signatures on the AREVA registration form.

OASIS: Complete the AREVA Family Registration Screen in OASIS. The path is: Resource, Directory, Homes, AREVA, Registration.

7.D Photo-listing (listing service) Procedures

7.D.1 AREVA operates a photo-listing of registered children and families.

7.D.1.1 **Each agency is instructed to view registered children on line at www.adoptuskids.org.**

7.D.1.2 **Periodic updates of the photo-listings are completed on line.**

7.D.1.3 **Agency workers wishing to maintain a hard copy book can download photo-listings and will be responsible to maintain their own binders.**

7.D.1.4 Inquiries about a child or a family may be made by telephone or by on-line inquiry **to use a form at <http://www.dss.virginia.gov/family/ap/forms.cgi> or 1-800-DO-ADOPT (800-362-3678).**

7.D.2 ([22VAC40-250-20](#)) Local agencies may request a 60 day deferment from the photo-listing for children and families when:

7.D.2.1 a family has been identified, including foster parents, and placement is pending, or

7.D.2.2 the child or family shall be featured in the photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed.

7.D.2.3 If a deferment is requested, the AREVA registration form must be submitted to AREVA. If the registration is for a child, include a copy of the court commitment and/or permanent entrustment and color picture.

7.D.3 ([22VAC40-250-20](#)) An additional 30 day deferment may be granted once at the discretion of AREVA staff.

7.D.3.1 The child or family shall be featured in the photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed or conditions in 7.D.4 have been met.

7.D.3.2 ([22VAC40-250-20](#)) The child or family shall be featured in the Photo-listing the month following expiration of the deferment period, unless an adoptive home placement agreement has been signed.

7.D.4 Upon the request of the local supervisor, additional deferment time may be granted at the discretion of the AREVA Unit for an additional 30 days. Additional time may be granted only under extenuating circumstances that are beyond the agency's control. An example would be a case involving an interstate placement where completion of the adoptive home study has been delayed in the other state. When requesting extended time, the agency must specify the reason for the extension and provide a time period for the needed extension. This request should be made on the change-of-status form and must be signed by the supervisor. Requests will be considered by the AREVA Unit on a case-by-case basis.

7.D.4.1 Deferments relate only to the photo-listing service. Children and families for who deferments are being requested must be registered with AREVA.

OASIS: Complete the AREVA Deferment screen in OASIS. The path in the foster care case is Case Plan, FC, Pre-Adopt, AREVA, Registration.

7.D.5 ([22VAC40-250-20](#)) AREVA staff shall make the determination about which children and families to feature in the photo-listing. The decision will be based on the needs of waiting children and on the types of families waiting for placement.

7.E.4 Notification to AREVA of Change of Status

7.E.4.1 Use the change-of-status form to provide updated information on the child or the family;

7.E.4.2 Use the change-of-status form to close a case in AREVA, specifying the reason for withdrawal.

OASIS: Complete the AREVA Change of Status form. The path is: Workload, Case Plan, FC, Pre-Adopt, AREVA, Status Chg. , or Resource, Directory, Homes, AREVA, Status Chg.

7.F. Resource utilization

When indicated, AREVA staff shall consult with the agency regarding the need to explore additional resources.

7.F.1 AREVA staff may recommend referral of a child to a specialized adoption agency.

7.F.2 AREVA staff shall routinely register a child with the national adoption exchange after registration with AREVA unless a placement is pending.

7.F.3 AREVA will be responsible for on-going recruitment of prospective adoptive families, using resources such as:

7.F.3.1 Television, radio, and print media

7.F.3.2 Virginia One Church, One Child program.

7.F.4 AREVA will automatically feature children on the state's adoption website, www.adoptUSkids.org/states.va. AREVA staff shall make the determination about which children to feature. The decision will be based on the needs of waiting children.

7.F.5 AREVA staff will monitor OASIS to identify children overdue for registration.

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**SECTION 8
SUBSIDY**

OASIS: All subsidy information must be entered into OASIS. The path is: Workload, Adopt, Subsidy.

Subsidized adoption, also called adoption assistance, is a means of providing a money payment and/or services to adoptive parent(s) on behalf of a child with special needs. The purpose of subsidy is to facilitate the adoption of children who are considered hard to place because they have special needs and few families are available. Without subsidy, these children are likely to remain in long-term foster care.

The child is the client and eligibility for subsidy is based on the needs of the child, not on the financial circumstances of the adoptive family. An adoption assistance agreement shall be executed by the agency or child placing agency for all children who have been determined to have special needs.

Adoption assistance should be a partnership between the agency and the adoptive parents. The adoptive parents are responsible for the routine costs of raising a child and the agency helps the adoptive parents in meeting the child's special needs. Adoption assistance payments should relate directly to the special needs of the child.

Most children must be determined eligible for subsidy before legal adoption. For some children, eligibility can be established after the adoption (see 8.J).

There are 9 steps in the subsidy process:

8.A. Step one - Determining The Child's Eligibility for Subsidy before Legal Adoption

8.A.1 Basic Eligibility

The child must be:

- 8.A.1.1 under 18 years of age;
- 8.A.1.2 in the custody of a local board of public welfare/social services or a licensed, private child placing agency at the time the petition for adoption is filed; and

8.A.1.3 placed by the agency with the prospective adoptive family for the purpose of adoption.

A.1.3.1 There are exceptions to basic subsidy eligibility criterion 8.A.1.2 and 8.A.1.3, requiring the child to be in agency custody and placed by the agency with the prospective adoptive family.

(i) The first exception is when a foster parent with whom the child has resided for 18 months files a petition for adoption under Section 63.2-1229 of the Code of Virginia. With this exception, the child must still meet the definition of special needs.

(ii) The second exception is when the child is eligible for SSI at the time the adoption petition is filed.

In (i) and (ii) above, adoption assistance payments are initiated upon final order of adoption and are retroactive to the date the petition was filed. An Adoptive Home Placement Agreement is not required.

A.1.3.2 A copy of the Adoptive Home Placement Agreement signed by the agency and prospective adoptive parent(s) is evidence that custody is with a local board of public welfare/social services or licensed private agency at the time the petition is filed and that the child was placed by the agency with the prospective adoptive family.

[Section 63.2-1229](#), *Code of Virginia*. When a foster parent who has a child placed in the foster parents' home...desires to adopt the child and (i) the child has resided in the home of such foster parent continuously for at least eighteen months and (ii) the birth parents' rights to the child have been terminated, the court shall accept the petition filed by the foster parent and shall order a thorough investigation of the matter.....

8.A.2 Special Needs

A special needs child is one who:

- 8.A.2.1 is legally free for adoption through the termination of all parental rights;

Title IV-E, Section 473 (c) (1) of the Social Security Act states that a child shall not be considered a child with special needs unless the State has determined that the child cannot or should not be returned to the home of his parents; and.....

[Section 63.2-1300](#), *Code of Virginia*. A "child with special needs" shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto....or (ii) in the custody of a licensed child-placing agency.....

- 8.A.2.2 has at least one of the following individual characteristics that make the child hard to place:

- A.2.2.1 a physical, mental, or emotional disability existing before legal adoption;
- A.2.2.2 a hereditary, congenital problem or birth injury that could lead to a future disability;
- A.2.2.3 being six years of age or older;
- A.2.2.4 being a member of a minority or mixed racial heritage;
- A.2.2.5 being a member of a sibling group that is ready for placement at the same time and that should not be separated; or
- A.2.2.6 having significant emotional ties with the foster parents with whom the child has resided for at least 12 months, when the adoption is in the best interest of the child and when the subsidy

is necessary to consummate the adoption by these foster parents.

Use the above criteria only when one of the other individual characteristics does not apply.

A child whose only individual characteristic is emotional ties must be provided with a state subsidy agreement, rather than a IV-E subsidy agreement, even if child is IV-E eligible.

Title IV-E, Section 473 (c) (2) of the Social Security Act. A child shall not be considered a child with special needs unless... the state has first determined (A) that there exists with respect to the child a specific factor or condition (such as his ethnic background, age, or membership in a minority or sibling group, or the presence of factors such as medical conditions or physical, mental, or emotional handicaps) because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance.....

[Section 63.2-1300](#), *Code of Virginia*. "Child with special needs" shall mean any child....for whom it has been determined that it is unlikely that the child will be adopted within a reasonable period of time due to one or more factors including, but not limited to:

1. Physical, mental or emotional condition existing prior to adoption;
2. Hereditary tendency, congenital problem or birth injury leading to substantial risk of future disability; or
3. Individual circumstances of the child related to age, racial or ethnic background or close relationship with one or more siblings....

8.A.2.3 has had reasonable efforts made to first place the child with an appropriate adoptive parent(s) without providing subsidy. A reasonable effort has been made when:

A.2.3.1 local recruitment efforts have been undertaken and documented; or

A.2.3.2 requirements for registration with AREVA have been met and the child has been featured in the AREVA photo-listing for a period of 30 days or other special recruitment efforts have been

undertaken by AREVA and an appropriate family has not been identified.

- 8.A.2.4 Reasonable effort shall be made except when it would be against the best interest of the child because of such factors as the existence of significant emotional ties with the foster parents;

A child who meets the conditions in 8.A is a child with special needs. An adoption assistance agreement must be approved on behalf of the child. The prospective adoptive family must be informed of the child's eligibility and of the types of payments and services for which the child is eligible.

In cases where there is a choice between a family that can accept the child without subsidy and a family that needs subsidy, the guiding principle shall be the best interest of the child. The family best able to meet the needs of the child shall be the family of choice.

Title IV-E, Section 473 (c) (2), of the Social Security Act. A child shall not be considered a child with special needs unless..... (B) that, except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance....

[Section 63.2-1301](#), *Code of Virginia*. Such subsidy payments shall be made, however, only after a reasonable but unsuccessful effort has been made to place the child with appropriate adoptive parents without the provision of adoption assistance...except in cases where the child has developed significant emotional ties with the prospective adoptive parents while in the care of such parents as a foster child.

8.B Step two - Determining The Type Of Agreement For Which The Child Is Eligible

After a child has been determined eligible for subsidy, the next step is to determine the type of subsidy for which the child will be eligible. There are three types of subsidy agreements: a IV-E subsidy, a state subsidy, and a conditional state subsidy.

8.B.1 A IV-E Subsidy

IV-E subsidies are used for children whose foster care maintenance expenses are paid from federal and state funds. These include children who are in IV-E (AFDC-FC) foster care and children who are eligible for Supplemental Security Income benefits (SSI). A IV-E subsidy agreement shall be executed for any child who is a special needs child and meets eligibility requirements for AFDC or SSI. When a child is eligible for SSI and meets the special needs criteria set forth in 8.A.2, the child is eligible for IV-E subsidy regardless of child's foster care funding category. Foster care requirements related to reasonable efforts to prevent removal and court order language indicating that the removal was in the best interests of the child do not apply.

8.B.1.1 To be eligible for a IV-E subsidy, the child must meet AFDC eligibility requirements as in effect in July 1996 at the time of entry into care. The child must also meet AFDC-FC or SSI eligibility requirements at the time the petition for adoption is filed. Eligibility for AFDC-FC must be documented in the case record at the time of entry into foster care and when the petition is filed. Eligibility for SSI must be documented in the case record at the time the petition for adoption is filed.

8.B.1.2 Medicaid must be provided for children receiving a IV-E subsidy for as long as the child has an adoption assistance agreement in effect.

Title IV-E, Section 473 (a), (5), of the Social Security Act. For purposes of title XIX, any child with respect to whom adoption assistance payments are made under this section... shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

8.B.1.3 A child may continue to receive SSI payments after adoption if the income of the adoptive family meets the level required for SSI. However, when the family's income is sufficiently low to meet requirements for continuing SSI payments, SSI will deduct the amount of the adoption assistance maintenance payment dollar for dollar from the SSI payment. The agency, in consultation with the adoptive family, should determine which payment source (adoption assistance or SSI) will provide the highest benefit for the child and family.

8.B.1.4 If a IV-E child is placed in or moves to another state, the child is eligible for Medicaid in the new state of residence (See 8.K.).

8.B.1.5 Adoption assistance payment and services may begin as soon as the adoptive home placement agreement and adoption assistance agreement are signed, and the child is placed in the adoptive home. However, if the adoption is not finalized within 12 months of placement in the adoptive home, the agency must suspend adoption assistance payments and provide foster care payments until finalization of the adoption, with no gaps in payment to the family. Exceptions may apply in some situations. A request for a waiver to continue the subsidy payment must be submitted in writing to the appropriate Regional Program Specialist.

B.1.5.1 When payments and services begin before entry of the final order of adoption, the child's continuing eligibility for IV-E must be established at the time the petition for adoption is filed. When the AFDC-FC case is closed, the service worker determines continuing eligibility by looking at the child's income and resources:

(i) If the child's income and resources have not changed, the child continues to be eligible. The service worker documents in writing that the child's income and resources have not changed since the last eligibility re-determination.

(ii) If the child's income and resources have changed, the service worker must consult with the eligibility worker to determine whether the change results in ineligibility for IV-E. If the change does not make the child ineligible, document this in writing.

(iii) Before finalization of the adoption, the documentation is maintained in the child's foster care record. After finalization the

documentation is maintained in the child's subsidy record.

Title IV-E, Section 473 (a) (45) of the Social Security Act. ...individuals with whom a child (who has been determined by the state...to be a child with special needs) is placed for adoption...shall be eligible for adoption assistance payments ...during the period of the placement on the same terms ...as if such individuals had adopted such child.

- 8.B.1.6 When an adoptive family indicates that they do not want a payment or services, including Medicaid, a IV-E subsidy agreement must still be entered into with the family. In this case, the agreement serves as a mechanism that will allow the family to receive payments and services if the need arises at a later date. The agreement must indicate that the child is eligible for medical services under Title XIX. An annual affidavit is required.

The case must be entered into OASIS and the annual affidavit is required. If the family declines to sign an agreement, they must sign a statement that the benefits of Title IV-E adoption assistance have been fully explained to them.

45 CFR 1356.40 (b) requires that the adoption assistance agreement be entered into prior to the entry of a final order of adoption.

- 8.B.1.7 The source of funding for IV-E maintenance payments is Title IV-E of the Social Security Act.
- 8.B.1.8 The agency will be reimbursed 100% of all maintenance and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

8.B.2 State Subsidies

State subsidies are used for children whose foster care expenses are paid from CSA pool funds.

Medicaid may be continued after adoption for some children receiving a state subsidy.

8.B.2.1 In order for Medicaid to be continued, the following conditions must be met:

B.2.1.1 The child must have a special medical or rehabilitative need.

B.2.1.2 There must be an adoption assistance agreement in effect.

B.2.1.3 The adoption assistance agreement must identify the special medical need.

B.2.1.4 The child must have been eligible for Medicaid prior to the adoption assistance agreement being entered into.

B.2.1.5 The child's own income and resources cannot exceed the AFDC or Medicaid income limit for a single person.

B.2.1.6 There must be documentation in the subsidy record of the child's special medical or rehabilitative need. The documentation must be from a qualified professional such as a physician, psychiatrist, psychologist, or licensed therapist.

8.B.2.2 Medical and rehabilitative needs for which Medicaid can be continued after adoption include, but are not limited to:

B.2.2.1 Diagnosed physical, mental, and emotional disabilities.

B.2.2.2 Diagnosed congenital problems and birth injuries.

B.2.2.3 Diagnosed medical conditions that do not require immediate treatment, such as sickle-cell anemia.

B.2.2.4 Medical or emotional conditions requiring regular medication, such as epilepsy, allergies, attention deficit disorders.

B.2.2.5 Severe visual and dental problems requiring non-routine medical treatment.

8.B.2.3 Children for whom services are requested after final order of adoption are not eligible for Medicaid through adoption assistance unless a conditional adoption assistance agreement was signed before final order of adoption.

8.B.2.4 Payment and services may begin as soon as the adoption assistance agreement and adoptive home placement agreement are signed, and the child is placed in the adoptive home.

8.B.2.5 The source of funding for a state subsidy is state funds.

8.B.2.6 The agency will be reimbursed 100% of all maintenance, special services including those made for IV-E children, and non-recurring reimbursement payments.

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

8.B.3 Conditional Subsidies

A conditional subsidy agreement is used when payments and services are not needed at the time of placement, but may be needed later.

[22VAC 40-260-20](#) of the Virginia Administrative Code of the Virginia Administrative Code provides that a conditional subsidy shall be provided for any child with special needs, whose foster care expenses are paid from Comprehensive Services Act pool funds, when payments and services are not needed at the time of the placements, but may be needed later.

- 8.B.3.1 A conditional subsidy is granted at the request of the adoptive parents when a child:
- B.3.1.1 has a physical, mental or emotional disability present at the time of placement;
 - B.3.1.2 has a hereditary tendency, congenital problem or birth injury;
 - B.3.1.3 could develop emotional or other problems resulting from separation from birth parents, placement in foster care or adoption; or
 - B.3.1.4 may need help later with daily living expenses such as food, clothing and shelter.
- 8.B.3.2 In addition to the factors listed in 8.B.3.1., a conditional subsidy is also granted at the request of the adoptive parents when the child has prenatal drug exposure and when the birth parents' medical history is unknown.
- 8.B.3.3 A conditional subsidy does not involve money payments or services. It is an agreement that allows the adoptive parent(s) to apply for a state subsidy after the final order.
- 8.B.3.4 A conditional subsidy commits the agency to providing a state subsidy when the adoptive parent(s) apply, if it is determined that the need is related to one of the conditions described in A above.
- 8.B.3.5 A conditional subsidy does not require an annual affidavit.
- 8.B.3.6 Conditional subsidies are not used for children who are eligible for IV-E subsidy. For IV-E children, an adoption assistance agreement must be entered into to show the child's continuing eligibility for Medicaid. If a family indicates

they do not want these services, it is their option as to whether they use the services. However, the agreement must be signed. This serves as a conditional agreement for IV-E children.

8.B.4 International adoptions

Children who are adopted abroad by U.S. citizens or who are brought into the U.S from another country for the purpose of adoption are not eligible for adoption assistance.

8.C. Step three - Determining The Type Of Payment To Be Made

Adoption assistance payments must be negotiated with the adoptive family, taking into consideration the needs of the child and the circumstances of the family. In considering the family's circumstances, income shall not be the sole factor. Expenses, the need to save money for college educations of children already in the family, the number of dependents, and other circumstances of the family must also be considered. Family and community resources must also be explored to help defray the costs of adoption assistance. Adoption Assistance payment are not intended to cover 100% of the cost of raising a child but are to supplement costs related to the special needs of the child to encourage permanent placements for children.

Title IV-E, Section 473(a)(3), of the Social Security Act. The amount of the adoption assistance payments shall be determined through agreement between the adoptive parents and the state...which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted...

The primary source of payment is always the family's private health insurance, if available.

[Section 38.2-3411.2A](#), Code of Virginia...each insurer that offers coverage for a family member of the insured...shall...also provide that the accident and sickness insurance benefits applicable for children shall be payable with respect to adopted children ...
C. An adopted child shall be eligible for the coverage...from the date of adoptive ...placement....
E. No insurer...shall restrict coverage for any dependent child adopted or placed for adoption solely because of a preexisting condition of such child ...

The Employer Retirement Income Security Act of 1974 (29 U.S.C. 1169 (c))...Additional Standards for Group Health Plans Section 609. (c) (1) Coverage effective upon placement for adoption. In any case in which a group health plan provides coverage for dependent children of participants or beneficiaries, such plan shall provide benefits to dependent children placed with participants or beneficiaries for adoption under the same terms and conditions as apply in the case of dependent children who are natural children of participants...irrespective of whether the adoption has become final. (2) Restrictions Based on Preexisting Conditions at the Time of Placement for Adoption Prohibited. A group health plan may not restrict coverage...of any dependent child adopted by a participant or beneficiary, or placed with a participant or beneficiary for adoption solely on the basis of a preexisting condition of such a child at the time that such child would otherwise become eligible for coverage under the plan, if the adoption or placement for adoption occurs while the participant...is eligible for coverage under the plan.

Adoptive families need to ensure that the health care coverage they have is a family policy. If the policy does not provide family coverage, the above laws do not require a third party insurance provider to cover the child.

There are three types of payments which may be made on behalf of a child who is eligible for subsidy; maintenance, special service, and one time only payments for non-recurring expenses. One or more types may be used for the same child. The amount of payments made and services provided shall not exceed what would be paid or provided had the child remained in foster care.

Title IV-E, Section 473(a)(3)...in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

Retroactive maintenance and special service payments may be made only back to the date of the Application for Adoption Assistance.

A description of the types of payments follows:

8.C.1 Maintenance Payments

A maintenance payment is used to help with the child's daily living expenses.

8.C.1.1 A maintenance payment shall be provided for all children who are eligible for subsidy, unless the adoptive parent(s) indicate that a payment is not wanted or it is determined

through negotiation that a maintenance payment is not needed.

8.C.1.2 Maintenance payments are intended to cover the costs of food, clothing, shelter, daily supervision, school supplies and a child's personal essentials.

8.C.1.3 Maintenance payments shall not be reduced lower than the amount specified in the initial subsidy agreement, unless requested by the adoptive parents.

8.C.1.4 The Virginia Administrative Code [22 VAC 40-260-20](#) provides that increases in the amount of payment shall be made when:

C.1.4.1 a child who is receiving the maximum allowable payment:

(i) reaches a higher age grouping as specified in foster care policy for maintenance payments; and

(ii) statewide increases are approved for regular foster care payments.

C.1.4.2 The agency must notify the adoptive parents in writing of all increases in maintenance payments.

8.C.1.5 Payments shall be made directly to the adoptive parent(s) on a monthly basis.

[Section 63.2-1302](#), *Code of Virginia*. A. Subsidy payments shall include:

1. A maintenance subsidy which shall be payable monthly to provide for the support and care of the child; however, the maintenance subsidy shall not exceed the maximum regular foster care payment that would otherwise be made for the child...

[Section 63.2-1302, B](#), *Code of Virginia*. Maintenance subsidy payments made pursuant to this section shall not be reduced unless the circumstances of the child or adoptive parents have changed significantly in relation to the terms of the subsidy agreement.

8.C.2 Special Service Payments

A special service payment is used to help meeting the child's physical, mental, emotional, or dental needs. In most cases, the payment shall be related directly to the child's special need(s). There may be times, however, when the financial circumstances of the adoptive family are such that a special service payment will be needed for routine expenses of child-rearing such as day care. These situations should be the exception rather than the rule and must be decided on an individual case basis.

The special service payment should be used only when it is determined that the adoptive family's private insurance and Medicaid do not cover the expense.

- 8.C.2.1 Special service payments are used to provide services that would have been provided had the child remained in foster care.

[22 VAC 40-260-20](#) of the Virginia Administrative Code states that expenses that may be paid include, but are not limited to:

- C.2.1.1 medical, surgical, or dental care;
- C.2.1.2 equipment such as prosthetics, braces, crutches, hearing aids, eyeglasses, etc;
- C.2.1.3 individual tutoring or remedial educational sessions, books or equipment;
- C.2.1.4 psychological and psychiatric evaluations and treatment;
- C.2.1.5 speech, physical, and occupational therapy; and
- C.2.1.6 premiums for a major medical insurance policy for a child, if the child is not covered by a family policy;
- C.2.1.7 Specialized care payments for care provided directly to the child by the adoptive parents. These are services provided by the parent to meet the special needs of the child. These payments are distinct from basic maintenance and supervision. The parents shall be qualified by experience or specific training to

perform such services. This item may be paid in addition to a maintenance payment.

An example is payment to an adoptive parent for providing physical therapy to a child with cerebral palsy. Another example is when the child's behavior is so extreme the adoptive parents must have special training or above normal supervision is required.

Adoptive parents who are trained as therapeutic foster parents will not receive additional payment for providing therapeutic services unless such services are needed based on a diagnosis from a physician, therapist or other qualified professional, and are being provided for the child. When a child is placed with adoptive parents who are trained therapeutic foster parents and the child does not need the therapeutic services of the adoptive parents, the adoptive parents will receive the basic maintenance rate.

Specialized care payments to adoptive parents will not include payment for case management services. However, case management can be purchased with a special service payment.

8.C.2.2 Special service payments may also be used for respite care when the child's condition requires extreme difficulty of care and other resources are not available. Special service payments may also be used for summer camps that are treatment oriented.

8.C.2.3 Specialized care payments may be used for children eligible for Title IV-E Adoption Assistance to supplement expenses not covered by Medicaid or when Medicaid does not provide adequate coverage. Although Medicaid must be extended for children receiving a IV-E subsidy, there may be times when Medicaid does not cover all needed services. When at all possible, Medicaid should be used for IV-E children instead of special service payments. When special service payments are made for IV-E children, the source of funding is state funds.

8.C.2.4 Special service payments may be made directly to the providers of service or through the adoptive parents. Providers must submit a

bill before they can be paid. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the service was rendered.

8.C.2.5 If a provider is to be paid directly by the agency, the provider must be approved according to requirements for purchase of service specified by the department of social services. If the provider is not listed on the Service Fee Directory, a contract must be drawn up. The rate of payment shall not exceed the prevailing community rate.

8.C.2.6 Special service payments may be used to pay for residential treatment.

C.2.6.1 Payments for residential treatment may be made only when the plan for placement has been reviewed and recommended by the FAPT (Family Assessment and Planning Team) in the locality where the child and family reside. Documentation that less restrictive alternatives have been assessed and ruled out must be maintained in the subsidy record.

(i) The agency in the family's residence locality is responsible for presenting the case to their FAPT.

(ii) The locality where the family resides is responsible for providing case management services for as long as the case is before the FAPT.

(iii) Once the FAPT team has made their recommendation about the need for residential treatment services and determined that there are no alternative community resources, the case does not have to be brought back before the FAPT team for additional reviews or decision-making.

C.2.6.2 Payments for residential treatment shall be made only when the plan for the child is to return to the adoptive home. Exceptions apply only when the

child's condition prohibits return to the adoptive home and the adoptive parents demonstrate their continued involvement in the life of the child.

- C.2.6.3 The adoptive parents must show their continued commitment to the child by participating in service planning, supporting the child emotionally, and visiting, when appropriate.
- C.2.6.4 Payments for residential treatment may not be made for longer than 12 months, unless a review of the child's situation by the adoption assistance agency demonstrates the need for additional treatment. When payments are made for longer than 12 months, the adoption assistance agency shall review the case every six months thereafter to assess the continuing need for treatment.
- C.2.6.5 When the placement is a non-educational placement and the child does not require special education, the adoption assistance agency is responsible for the costs of placement.
- C.2.6.6 When the placement is a non-educational placement and the child is eligible for special education, CSA funds are used to pay the portion of costs related to special education. The CSA responsible for payment is the one in the locality where the child and family have legal residence. Maintenance and other service costs will be the responsibility of the agency which entered into the adoption assistance agreement with the family.
- C.2.6.7 If the placement is a result of an Individualized Education Program (IEP), all costs will come from the state pool allocation of the Community Policy and Management Team where the child and family have legal residence.
- C.2.6.8 The adoptive parent(s) have the final authority over whether to place the child in a residential facility. If FAPT has not recommended residential treatment,

the adoptive parent(s) is responsible for the total costs of the placement.

C.2.6.9 In determining the amount, negotiations are conducted with the adoptive parent(s) in the same manner as any other special service payment.

8.C.2.7 Medicaid may be used for residential treatment

Medicaid may cover residential treatment for children receiving adoption subsidy who are enrolled in Medicaid, when the child meets Medicaid medical necessity criteria and is in a Medicaid-enrolled facility. All Medicaid pre-authorization requirements must be met, which include an independent team certification of medical necessity. For non-CSA children, including children who are receiving adoption subsidy, the Community Services Board in the adoptive family's residence locality provides the independent team certification. In cases where the adoptive family does not reside in locality providing the subsidy, the adoptive family's residence locality and adoption assistance locality should work together with the adoptive parents to obtain the pre-admission screening and ensure that all required background information is available to meet Medicaid requirements.

8.C.2.8 Continuing subsidy when child is in residential

Adoption assistance agreements cannot be terminated prior to a child's 18th birthday without the consent of the adoptive parents unless the adoptive parents no longer provide financial support for the child, no longer have legal responsibility for the child (parental rights terminated), or the condition for which the child receives subsidy no longer exists. When a special service payment is being used to pay for a child's residential treatment, and it is determined that the adoptive parents continue to financially provide for the child, the adoptive parents may continue to receive a portion of the monthly maintenance subsidy. In these cases, the agency would continue to provide all but the room and board portion of the maintenance payment to the adoptive parents.

[Section 63.2-1302](#), *Code of Virginia*. Subsidy payments shall include:... a special need subsidy to provide special services to the child which the adoptive parents cannot afford and which are not covered by insurance or otherwise, including, but not limited to:

- a. Medical, surgical and dental care;
- b. Hospitalization;
- c. Legal services in effecting adoption;
- d. Individual remedial educational services;
- e. Psychological and psychiatric treatment;
- f. Speech and physical therapy;
- g. Special services, equipment, treatment and training for physical and mental handicaps; and
- h. Cost of adoptive home study and placement by a child-placing agency other than the local board.

8.C.3 One-time Only Payments For Non-Recurring Expenses

Non-recurring expenses are defined in the federal regulations at 45 CFR 1356.41 and interpreted in the Federal Child Welfare Policy Manual 8.2D.3 as “reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the legal adoption of a child with special needs, which are not in violation of State or Federal law, and which have not been reimbursed from other sources or funds.” Non-recurring expenses may not be used to reimburse the local agency for any adoption services. Local agencies cannot set caps or limits for any category of non-recurring expenses.

8.C.3.1 Non-recurring expenses shall include:

C.3.1.1 **Reasonable and necessary fees of licensed adoption child-placing agencies.**

C.3.1.2 Transportation and other expenses incurred by adoptive parents related to placement of the child. Expenses may be paid for more than one visit.

C.3.1.3 Court costs related to filing an adoption petition,

C.3.1.4 Attorney fees to finalize the adoption, and/or

C.3.1.5 Other expenses directly related to finalizing the adoption.

- 8.C.3.2 The total amount of reimbursement for non-recurring expenses is based on actual costs and shall not exceed \$2,000 per child per placement.
- 8.C.3.3 The adoption assistance agreement shall specify the amounts and categories of non-recurring expenses to be **claimed**.
- 8.C.3.4 Payment of non-recurring expenses may begin as soon as the adoption assistance agreement has been signed and the child is placed in the adoptive home. Payment may be made directly to providers of non-recurring expenses or to the adoptive parents for expenses they have incurred.
- 8.C.3.5 A bill or receipt shall be submitted before payment can be made. The agency shall not be responsible for bills or receipts submitted later than six months after the end of the month in which the expense was incurred.
- 8.C.3.6 All non-recurring costs are **paid from Title IV-E** adoption assistance, **Budget Line 812**, even for children with State adoption assistance agreements.

Title IV-E, Section 473 (a)(1)(B)(i) of the Social Security Act.... the State shall make payments of nonrecurring adoption expenses incurred by or on behalf of such parents in connection with the adoption of such child...

8.C.4 Tax Credits

Agencies are required to inform prospective adoptive parent(s) that a child who is in foster care with a local department of social services is potentially eligible for a Federal tax credit under section 23 of the Internal Revenue Code of 1986 (P.L. 110-351). Adoptive parents are, in some cases, eligible for tax credits for qualifying expenses incurred to adopt a child. Adoptive parents should consult with the Internal Revenue Service (www.IRS.gov) and professional tax preparers for more information.

8.C.5 Tuition Grant

The Virginia Tuition Grant Program provides tuition and fees at any Virginia community college specifically for high school graduates or individual who have completed their general education development (GED) who were in foster care, in the custody of a social services agency, or considered a special needs adoption at the time of graduation or GED completion. Further information on this program is available at the Department of Social Services website, www.dss.state.va.us, or from the community colleges. The community college website is www.vccs.cc.va.us.

8.D. Step Four - Processing the Application for Subsidy

If adoptive parent(s) are requesting subsidy on behalf of a child, they must submit an application. These procedures are outlined below.

8.D.1 Completion of the Application for Adoption Assistance (032-02-0060-04-eng)

- 8.D.1.1 This application is completed by the adoptive parent(s). They will need a separate application for each child needing a subsidy.
- 8.D.1.2 The agency retains the original and a copy is kept by the adoptive parent(s).
- 8.D.1.3 The application form may be submitted to the agency before placement of the child but must be approved before the adoption has been finalized.
- 8.D.1.4 Income of the adoptive parents is not to be considered in determining eligibility for subsidy.

8.D.2 Submission to the Local Board

Local agencies may submit information related to adoption assistance agreements to local boards or their equivalents in accordance with agency procedures. The local board is responsible for ensuring the adoption assistance agreement adequately provides for the needs of the child. Because subsidy must be provided to all children who are determined eligible, the local board does not have the authority to deny adoption assistance.

8.D.3 Completing the Adoption Assistance Agreement (**032-02-0062-04-eng**)

The adoption assistance agreement:

- 8.D.3.1 Shall be signed before entry of the final order of adoption. This form is signed by the adoptive parent(s) and the local board representative after the plan for adoption assistance has been approved by the board. The original is kept in the adoption record. A copy is given to the adoptive parent(s). When the child is in the custody of a private agency, the adoption assistance agreement must also be signed by the private agency.

ACYF-CB-PA-01-01. A written adoption assistance agreement must be signed by all parties to the agreement and in effect prior to the finalization of the adoption for any child for whom title IV-E adoption assistance payments are made.

- 8.D.3.2 The Virginia Administrative Code [22 VAC 40-260-20](#) requires that the adoption assistance agreement shall be executed within 90 days of receipt of the application for adoption assistance.
- 8.D.3.3 It shall specify the primary individual characteristic that made the child eligible for adoption assistance. Emotional bonding shall not be used as the primary characteristic unless it is the only individual characteristic that makes the child eligible for subsidy.
- 8.D.3.4 It shall specify the duration of the agreement. The agreement cannot be terminated before the child's 18th birthday unless the parent(s) agree or ineligibility is evident. With the concurrence of the adoptive parents, however, a time limit for payments or services may be set depending on the needs of the child.
- 8.D.3.5 It shall specify the amount of payment and the services to be provided, including Medicaid, social services block grant services, and non-recurring expenses.

- D.3.5.1 For CSA foster children who will continue to receive Medicaid, the agreement must specify

	the special medical or rehabilitative needs of the child.
D.3.5.2	In the event that the adoptive parents live in or move to another state, children receiving a IV-E subsidy will be eligible for Medicaid in the state where they reside. Children receiving state subsidy may be eligible for Medicaid, based on certain criteria (see 8.B.2.1).
8.D.3.6	The adoption assistance agreement may be adjusted with the concurrence of the adoptive parents, in the event of changes in the needs of the child. Changes in the agreement can be made at any time to pay for needs of the child that existed at the time of placement or that resulted from the child's foster care situation.
8.D.3.7	The agreement must specify that the interest of the child shall be protected should the adoptive parents and child move to another state while the agreement is effective.
8.D.3.8	The agreement shall remain in effect regardless of the state in which the adoptive parents are residents at any given time.

8.D.4 Informing Adoptive Parents Of Their Right To Appeal

The agency shall inform adoptive parents, in writing, that they have the right to appeal decisions relating to the child's eligibility for subsidy and decisions relating to payments and services to be provided (refer to Part 9).

Title IV-E, Section 471(a)(12) of the Social Security Act. In order for a state to be eligible for payments under this part, it shall have a plan approved...which...provides for granting an opportunity for a fair hearing...to any individual whose claim for benefits...is denied or is not acted upon with reasonable promptness...

8.D.5 Completing the Placement Agreement - Adoptive Home (032-02-023/3)

The adoptive parent(s) must sign the adoptive home placement agreement before subsidy payments begin.

8.E Step Five - Beginning Payments And Services

Payments and services can only be provided to adoptive parents who have entered into a written adoption assistance agreement. Payment and/or services may begin as soon as the child is placed in the adoptive home and an adoptive home placement agreement has been signed. A subsidy maintenance payment is not required for the child to receive Medicaid.

8.F Step Six - Maintaining Responsibility

An adoption assistance agreement is a written agreement that is binding on the parties to the agreement. Both the adoptive parent(s) and the agency have responsibility related to the adoption subsidy agreement that must be met.

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement, binding on the parties to the agreement, between the state agency, other relevant agencies, and the prospective adoptive parents of a minor child.....

[Section 63.2-1302, B](#), *Code of Virginia*. Maintenance subsidy payments and special need subsidy payments shall be made on the basis of a subsidy payment agreement entered into by the local board and the adoptive parents, or in cases in which the child is in the custody of a licensed child-placing agency, an agreement between the local board, licensed child-placing agency, and the adoptive parents.

8.F.1. [22 VAC 40-260](#) requires the adoptive parents to:

- | | |
|---------|---|
| 8.F.1.1 | submit annually to the agency an affidavit which certifies that: |
| F.1.1.1 | the child for whom they are receiving subsidy remains in their care; |
| F.1.1.2 | they are legally responsible for supporting the child; and if applicable, |
| F.1.1.3 | the child's condition requiring subsidy continues to exist. |

- F.1.1.4 The affidavit must be signed and notarized by at least one parent and is all that is required for the agreement to remain in effect. The case does not have to be presented to the board for renewal and a new agreement is not necessary.

[Section 63.2-1302..B](#), *Code of Virginia*. Adoptive parents shall submit annually...an affidavit which certifies that (i) the child on whose behalf they are receiving subsidy payments remains in their care and (ii) the child's condition requiring subsidy continues to exist.

Title IV-E, Section 473(a)(3)...Parents who have been receiving adoption assistance payments...shall keep the state or local agency administering the program...informed of circumstances which would...make them ineligible for such assistance payments, or eligible for assistance in a different amount.

- 8.F.1.2 Submit copies of all bills or receipts for special service payments for which they are requesting reimbursement.

8.F.2 The agency or child placing agency shall:

- 8.F.2.1 Maintain responsibility for any payment or services identified in the agreement, regardless of where the family resides. The agency may request assistance from an agency in the family's locality to provide any direct services the family may need. If the assisting agency is not able to provide the service directly, the placing agency is financially responsible for purchasing the service.

[Section 63.2-1302. C](#), *Code of Virginia*. Responsibility for subsidy payments for a child placed for adoption shall be continued in the event that the adoptive parents live in or move to another jurisdiction...

Title IV-E, Section 475(3) of the Social Security Act. The term adoption assistance agreement means a written agreement...which at a minimum...(B) stipulates that the agreement shall remain in effect regardless of the state of which the adoptive parents are residents at any given time...

- 8.F.2.2 Notify adoptive parents who are receiving subsidy that the annual affidavit is due. The notification letter shall be sent to the adoptive parents two months before the affidavit is due. The notification should inform the adoptive parent(s) that the affidavit is due and request that it be provided by the due date specified in the notification letter.

[Section 63.2-1302. B](#), *Code of Virginia*. Failure to provide the annual affidavit may be grounds for suspension of the subsidy payment until such time as the affidavit is provided.

OASIS: The path to the cover letter & affidavit form is: Workload, Other, DocTrkg.

- 8.F.2.3 Ensure that the notarized affidavit has been returned. Failure to submit the affidavit will be grounds for suspension of the subsidy agreement until the information is provided. Once the affidavit is received by the agency, retroactive payment will not be made to the adoptive parent(s) to cover the period of time the affidavit was outstanding.

[Section 63.2-1302. B](#), *Code of Virginia*. Failure to provide this information may be grounds for suspension of the subsidy payment until such time as the information is provided.

- 8.F.2.4 Notify the adoptive parent(s) in writing when an adoption assistance agreement has been terminated. When there are two parents on an active adoption assistance agreement, both parents must be notified, even if the parents are separated. The agreement cannot be terminated without the concurrence of the adoptive parent(s) unless one of the conditions described in 8.G.

- 8.F.2.5 Investigate all suspected cases of adoption assistance fraud.

[Section 63.2-522](#), *Code of Virginia*. Whoever obtains, or attempts to obtain...by means of a willful false statement...or other fraudulent device, assistance or benefits from ...programs designated under rules and regulations of the State Board of

Social Services...to which he is not entitled...is guilty of larceny, punishable under Section 18.2-95 of the *Code of Virginia*.

8.G. Step Seven - Terminating The Subsidy Agreement

8.G.1 The Adoption Assistance Agreement shall not be terminated before the child's 18th birthday without the consent of the adoptive parents unless:

- 8.G.1.1 it is determined that the child is no longer receiving financial assistance from the adoptive parents; or
- 8.G.1.2 the adoptive parent(s) are no longer legally responsible for the child; or
- 8.G.1.3 the child's condition requiring subsidy no longer exists.

[Section 63.2-1302. A](#), *Code of Virginia*. Subsidy payments shall cease when the child with special needs reaches the age of eighteen years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(B) no payment may be made to parents with respect to any child if the state determines that the parents are no longer legally responsible for the support of the child or if the state determines that the child is no longer receiving any support from such parents.

8.G.2 The Adoption Assistance Agreement must be terminated when:

- 8.G.2.1 the child becomes 18 unless the child has:
 - G.2.1.1 a physical, mental, or emotional disability (based on DSM-IV classifications and written diagnosis) which warrants the continuation of assistance, or
 - G.2.1.2 an educational delay. This shall include educational delays resulting from a child's foster care circumstances and applies only to completion of high school.

- G.2.1.3 If a child has one of the conditions in G.2.1.1, the IV-E or state agreement shall be continued until the child reaches the age of 21.
- G.2.1.4 If a child has a IV-E Adoption Assistance Agreement and educational delay is the sole reason for continuing the agreement, the agreement must be changed to a state agreement in order to continue after the age of 18. When an educational delay is the reason for continuing the agreement, the agreement shall be terminated at age 21 or when the child finishes high school, which ever comes first.

[Section 63.2-1302. A](#), *Code of Virginia*....If it is determined that the child has a mental or physical handicap, or an educational delay resulting from such handicap, warranting the continuation of assistance, subsidy payments may be made until the child reaches the age of twenty-one years.

Title IV-E, Section 473(a)(4) of the Social Security Act. ...(A) no payment may be made to parents with respect to any child who has attained the age of eighteen (or, where the state determines that the child has a mental or physical handicap which warrants the continuation of assistance, the age of twenty-one)...

- 8.G.2.2 the agency determines that the child is no longer receiving financial support from the adoptive parents;
- 8.G.2.3 the adoptive parent(s) are no longer legally responsible for the child; or
- 8.G.2.4 the child's condition requiring subsidy no longer exists.

8.G.3 Death of adoptive parent(s) and adoption dissolution

Adoption subsidy when adopted child and family are in Virginia:

- 8.G.3.1 When a IV-E adoption assistance child's adoptive parents die or adoption dissolves and the child is subsequently placed in another adoptive home, the child's IV-E eligibility can be reinstated for purposes of adoption assistance. The IV-E adoption assistance agreement can be reinstated,

regardless of whether the child is placed in the subsequent adoptive home by an agency. The child does not have to re-enter foster care to be eligible for continued IV-E adoption assistance. Nor does there need to be an Adoptive Home Placement Agreement, as in non-agency placements.

- 8.G.3.2 The agency responsible for the initial adoption assistance agreement remains responsible for continuing the agreement when the child is placed directly by the adoptive parents in the subsequent adoptive home.

Adoption subsidy in interjurisdictional adoptions

- 8.G.3.3 When a IV-E adoption assistance child's adoptive parents die or the adoption dissolves and arrangements are made by the adoptive parents for subsequent adoption of the child by a family in another state, the new adoptive parents would apply for adoption assistance in their state of residence. The public welfare agency in that state is responsible for determining whether the child meets the definition of special needs, entering into the adoption assistance agreement, and paying the subsidy.

- 8.G.4 The Adoption Assistance Agreement shall not be terminated if the child's condition improves but could deteriorate again. In this case, the agreement shall be suspended without a payment rather than terminated.

- 8.G.3.1 The agency must notify the adoptive parents in writing that payments will discontinue but that the agreement remains in effect.

- 8.G.3.2 If a future need arises, handle as a change in the needs of the child and amend the Adoption Assistance Agreement.

- 8.G.5 The adoptive parents must be notified in writing that the agreement has been terminated and that they have the right to appeal this decision.

8.H Step eight - Documenting pertinent information

8.H.1 The following information must be documented and kept in a separate subsidy file in the child's adoptive name. The information is needed for federal and state audits of the adoption assistance program. Failure to maintain the information could result in a child being found ineligible for adoption assistance and/or a loss of funding for the whole program. This information must be maintained on all children adopted with subsidy, even those whose adoptions are finalized out of state.

8.H.1.1 Documentation of the basis for the child's eligibility for subsidy

H.1.1.1 For SSI children, a copy of the notice of eligibility from the social security administration or a SSI payment stub.

H.1.1.2 For IV-E children, copies of all Foster Care Maintenance Evaluation forms or intra-agency forms that document:

- (i) Initial eligibility for IV-E foster care. The form must be dated and signed.
- (ii) Eligibility redetermination for IV-E foster care that was applicable at the time the adoption petition was filed. This can be documented by the service worker's written certification that the income and resources of the child have not changed since the last redetermination or by using the foster care maintenance evaluation form. The certification and form must be dated and signed.
- (iii) IV-E payments made for children who entered foster care through a temporary entrustment agreement.

H.1.1.3 A copy of the initial court order or entrustment agreement:

- (i) If the child was committed by the court, the

initial court order must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child. Reasonable efforts to prevent removal must be documented in a court order within 60 days of entry into care.

- (ii) If the child entered care through a permanent entrustment, there must be a subsequent court order approving the entrustment. The court order must be obtained within six months of the child's entrustment and must contain a statement that continuation in the home would be contrary to the welfare of the child or that removal was in the best interest of the child or that there is no less drastic alternative than removal of the child from the home;

8.H.2 Documentation of Special Needs, including copies of:

- 8.H.2.1 The court order terminating parental rights. This documents that the child cannot return home.
- 8.H.2.2 The summary of the child's special needs including where relevant the child's placement history, family background, and personal characteristics.
- 8.H.2.3 Pertinent diagnostic reports.
- 8.H.2.4 The statement for selecting this particular family for the child.
- 8.H.2.5 A copy of the AREVA Child's Registration form. This documents that reasonable efforts were made to first place the child without subsidy. In some cases, reasonable efforts do not have to be made. One example of when reasonable efforts do not have to be made is when the child is being adopted by the foster parents. When reasonable efforts are not made, there must be documentation that justifies the

reason. The Application for Adoption Assistance documents this for children adopted by foster parents.

8.H.3 Documentation of adoptive placement, final order, and adoption assistance including copies of:

8.H.3.1 The Adoptive Home Placement Agreement

8.H.3.2 The petition for adoption

8.H.3.3 The order of reference

8.H.3.4 The final order of adoption

8.H.3.5 The child's original birth certificate

8.H.3.6 The initial Adoption Assistance Agreement and all changes in the agreement

8.H.3.7 All annual affidavits

8.H.3.8 All bills submitted by the adoptive parents for reimbursement/payment

8.I. Step Nine - Statistical Reporting and Financial Information

Adoption assistance payments may begin as soon as the child is placed in the adoptive home if the adoptive home placement agreement has been signed and the adoption assistance agreement has been approved and signed.

8.I.1 Statistical Reporting

OASIS: Information on all children receiving adoption assistance must be entered into OASIS. The path is ADOPT, SUBSIDY. Click on the AFCARS button under Adopt and the system will prompt for missing information when the Missing Info button is clicked. A grayed out button indicates all AFCARS information is complete.

8.I.2 Financial reporting

8.I.2.1 Warrant registers

A separate warrant register must be prepared for state subsidies, for IV-E subsidies, and for non-recurring expenses:

I.2.1.1 For state subsidies, the warrant register is entitled State/Local Special Need Adoption.

I.2.1.2 For IV-E subsidies, the register is entitled Subsidized Adoption IV-E.

I.2.1.3 For non-recurring expenses, the register is entitled Non-Recurring IV-E Expenses.

8.I.1.2 Expenditure reporting

Local reimbursement of subsidy expenditures is done electronically through LANCER (Locality Automated System for Expenditure Reimbursement.) More information is available for local agencies in the *Finance and Administration Guidelines Manual for LDSS*, and the *LASER Expenditures Guidelines Manual*. Both are available at the DSS internal website, <http://localagency.dss.virginia.gov/divisions/finance/laser/>

8.J Determining Eligibility After Legal Adoption

8.J.1 To be eligible for subsidy after legal adoption:

8.J.1.1 the child must have a physical, mental or emotional condition that was present at the time of adoptive placement and no more than one year has elapsed since the most recent diagnosis was made; or

8.J.1.2 the need for subsidy results from a hereditary tendency, congenital problem, or birth injury that could lead to a future disability and no more than one year has elapsed since the most recent diagnosis was made.

8.J.2 Procedures for the Child Whose Eligibility Is Established after Legal Adoption:

- 8.J.2.1 The application must be submitted with a written diagnosis that is not older than 12 months.
- 8.J.2.2 The application must be for a state subsidy.
- 8.J.2.3 If there is an Adoptive Family Preservation Program (AFPP) in the area in which the applying adoptive family resides and the family is in crises, the agency should refer the family to AFPP for assessment and crisis intervention. This may assist in meeting the family's immediate needs, while the local agency proceeds with the application and eligibility process. The AFPP toll free number is 1-888-821-HOPE.
- 8.J.2.4 Children for whom subsidy applications are made after finalization are not eligible for Medicaid.
- 8.J.2.5 Type of Payment
- The payment may be for maintenance, special services, or both.

[Section 63.2-1300](#). *Code of Virginia*. "Child with special needs" shall mean...This term shall also include a child for whom the factors set out in subdivision (b) 1 or (b) 2 are present at the time of adoption but are not diagnosed until after the final order of adoption is entered and no more than one year has elapsed.

8.K The Interstate Compact on Adoption and Medical Assistance (ICAMA)

The 1985 Consolidated Omnibus Reconciliation Act (COBRA) passed by Congress mandated that states of residence provide Medicaid to all children adopted under Title IV-E adoption assistance, including children with adoption assistance agreements from other states. COBRA also provided states with the option of extending Medicaid to children adopted pursuant to state-funded adoption subsidy programs, if the child met certain criteria. This is referred to as the COBRA option and allows States to reciprocate with each other.

The ICAMA, of which Virginia is a member, is the mechanism by which the 1985 COBRA is operationalized. ICAMA has the force of law within and among the member states and provides for uniformity and consistency of policy and

procedures when a child with special needs is adopted by a family in another state or the adoptive family moves to another state.

Title IV-E, Section 475 (3) of the Social Security Act. The (adoption assistance) agreement shall contain provisions for the protection (under an interstate compact approved by the Secretary or otherwise) of the interest of the child in cases where the adoptive parents and child move to another state while the agreement is effective.

OASIS: All information on children who need ICAMA services must be entered into OASIS. The path is Workload, Adopt, Subsidy, ICAMA. The ICAMA forms can be printed from OASIS.

A child receiving adoption assistance that is placed across state lines for the purpose of adoption or moves with the adoptive family to another state after entry of a final order of adoption shall be eligible for Medicaid in their state of residence in certain situations. These situations are described below:

8.K.1 When a Virginia Child Is Placed in or Moves to Another State.

8.K.1.1 The child shall be eligible for Medicaid in the new state of residence if:

K.1.1.1 the child has a IV-E Adoption Assistance Agreement; or

K.1.1.2 the child has a state Adoption Assistance Agreement and is continuing to receive Medicaid on the basis of the state Adoption Assistance Agreement, and

- (i) the new state of residence is a party to the Interstate Compact on Adoption and Medical Assistance;
- (ii) the new state of residence provides the COBRA option for children moving into their state; and
- (iii) the new state of residence and the

adoption assistance state reciprocates the COBRA option.

8.K.1.2 Administration of the Interstate Compact on Adoption and Medical Assistance is handled by the Deputy Compact Administrator in the Adoption Unit at Central Office. The local agency shall:

K.1.2.1 Complete ICAMA Form 6.01 - Notice of Medicaid Eligibility/Case Activation. This form is used to certify to the child's eligibility for Medicaid in the state of residence:

- (i) For IV-E Adoption Assistance children, it is used to certify to the child's eligibility for Medicaid in the state of residence:
- (ii) For state children, the form certifies that Virginia has picked up the COBRA option to provide Medicaid to non-IV-E children receiving adoption assistance that have special medical or rehabilitative needs and provides reciprocity for non-IV-E children from other states that have also picked up the COBRA option.

- K.1.2.2 Submit the ICAMA 6.01 to the Deputy Compact Administrator in the Adoption Unit, along with a copy of the initial adoption assistance agreement and the most recent update to the adoption assistance agreement.

OASIS: The ICAMA 6.01 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.01.

- K.1.2.3 Complete ICAMA Form 6.02 - Notice of Action. Complete only the top portion of the form that identifies the adoptive parents and child, the date the child will be living at the new address and the new address. This form:

(i) Is submitted to the Deputy Compact Administrator in the Adoption Unit, who completes the remainder of the form and forwards it to the adoptive parents.

(ii) The form notifies the adoptive parents that the required paperwork and documentation necessary for issuance of a Medicaid Identification Document in the child's intended state of residence has been completed and mailed.

OASIS: The ICAMA 6.02 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.02.

- 8.K.1.3 The Deputy Compact Administrator will notify the agency, using ICAMA Form 6.03 Medicaid Case Activation, when a Medicaid case has been opened for the child in the new state of residence.

Medicaid in the child's originating state should be closed on the last day of the month the child leaves that state. The Medicaid case in the new residence state should open on the first day of the following month.

OASIS: The ICAMA 6.03 is completed and printed at path: Workload, Adopt, Subsidy, ICAMA, Form 6.03.

8.K.2 When a child from another state moves into Virginia and is eligible for a Virginia Medicaid Card, the other state will complete the necessary forms and mail them to the Virginia Deputy Compact Administrator.

8.K.2.1 The Virginia Deputy Compact Administrator will notify the DSS in the locality where the child will be residing of the child's need for a Virginia Medicaid card.

8.K.2.2 The ICAMA Forms and accompanying documentation shall serve as the application for Virginia Medicaid.

8.L. Adoption Assistance For Children in The Custody of Private Agencies.

[Section 63.2-1300](#), *Code of Virginia*. A "child with special needs" shall mean any child (i) in the custody of a local board of social services which has the authority to place the child for adoption and consent thereto....or (ii) in the custody of a licensed child-placing agency.....

When a child with special needs is in the custody of a child-placing agency licensed in Virginia, the public and private agency must work together to provide an adoption assistance agreement on behalf of the child. Applications are submitted to the local DSS in the area where the adoptive family resides. If the adoptive family resides out of state, application would be made to the placing agency, who would work with the DSS in the city/county where the agency is located. The steps to be followed and the responsible agency are outlined below:

8.L.1 Determine whether the child is a child with special needs.

The private agency:

8.L.1.1 determines that the child cannot be returned home;

8.L.1.2 determines that the child has at least one individual characteristic that makes the child hard to place (See to Part 8.A.2.2); and

8.L.1.3 makes a reasonable effort to first place the child without subsidy.

8.L.2 Determine whether the child will be eligible for IV-E or a State Adoption Assistance Agreement.

The private agency:

8.L.2.1 obtains necessary documentation; and

8.L.2.2 sends referral and documentation to the eligibility unit in the local department of social services. The referral should be made to the local agency in the same geographical location where the family resides.

The local agency:

8.L.2.3 screens the child and notifies the private agency of the child's eligibility for IV-E.

8.L.3 Family makes application for subsidy.

The private agency:

8.L.3.1 notifies local agency's service unit of family's interest in subsidy.

The local agency:

8.L.3.2 opens case on OASIS; and

8.L.3.3 sends forms to the family, negotiates needs with the family, obtain documentation of any necessary information. Both agencies need to be involved, working out together who takes responsibility for each function. The local agency has the final decision. Disputes between the agencies will be resolved by the regional office foster care and adoption specialist in the locality where the public agency is located.

8.L.4 Presentation of the Adoption Assistance Application to the local board:

The local agency, with involvement of private agency:

- 8.L.4.1 obtains all necessary documentation;
- 8.L.4.2 submits application package to the local board; and
- 8.L.4.3 obtains signatures on the adoption assistance agreement. The private agency signs the agreement with the local agency.

8.L.5 Begin payments and services

The local agency:

- 8.L.5.1 sends necessary information to the agency's fiscal officer and makes payments, using existing system. The private agency provides all the services necessary for finalization of the adoption.

8.L.6 Submits monthly expenditure report.

The local agency is responsible for all reporting related to expenditures.

8.L.7 Maintain Responsibility After Adoption.

The local agency:

- 8.L.7.1 sends Notice of Annual Renewal;
- 8.L.7.2 increases the amount of maintenance payments when the child reaches a higher age group, if appropriate; and
- 8.L.7.3 makes changes in the adoption assistance agreement, when necessary. The local agency and private agency work cooperatively in making the changes.

The private agency:

- 8.L.7.4 provides case management services when the family moves out of state; and

- 8.L.7.5 provides direct services or coordinates the delivery of services for families receiving adoption assistance.

8.M Checklist for Exploring Resources to Defray Costs of Subsidy

Before recommending any type of payment, all known resources must be explored to determine whether the costs of the child's special needs can be fully or partially defrayed. Some of these resources are:

1. Governmental Benefits To Which A Child May Be Entitled

- a. The child may be entitled to certain benefits because of the death or disability of a birth parent or adoptive parent. These include: Veterans Administration, Social Security, Railroad Retirement, etc.;
- b. If an adoptive parent is in military service, the child may be eligible for services under any existing military program.

2. Supplemental Security Income (SSI) Payments

SSI payments the child is receiving prior to adoptive placement may be continued after placement in the following circumstances:

- a. Before legal adoption, the income of the adoptive parents is not counted; however, because they are providing in-kind support to the child, the SSI payment can be reduced up to one-third of the regular amount;
- b. After legal adoption, the income and resources of the adoptive parents will be counted, using the same formula that would be applied to a birth child in the family unit;
- c. A SSI eligible child may receive both SSI payments and subsidy payments after adoption. However, Social Security will count the amount of Title IV-E adoption assistance paid to the parents and decrease the SSI benefit dollar for dollar by the amount of the subsidy payment.

3. Medicaid Coverage

- a. Medicaid coverage must be extended for children receiving a IV-E subsidy for as long as there is an adoption assistance agreement in effect. In some cases, Medicaid may not provide sufficient coverage to meet all of the child's needs. In this event, a special service payment may be used concurrently with Medicaid to pay for services not covered by Medicaid.

- b. Medicaid coverage for children receiving a State subsidy may be extended after adoption when:
 - 1) the child has a special medical or rehabilitative need and the child's own income and resources do not exceed the ADC or Medicaid income limit for a single person; or
 - 2) the income and resources of the adoptive family unit meet Medicaid eligibility requirements. In determining the family's eligibility for Medicaid, subsidy payments are not counted as income.
 - 3) Medicaid waiver service, if child is in a facility for 30 days or more.
4. Services Provided By Children's Specialty Services, State Department of Health

Children's Specialty Services may provide service for certain conditions on a flat-rate clinic fee basis or on a spend-down basis, depending upon the income level of the adoptive parents. Explore these services before approving a special service payment for the child's medical, psychiatric, or dental needs.
5. Hospital And Major Medical Insurance Plans

Any insurance plan carried by or available to the adoptive parent(s) may cover expenses for the child. If an additional premium or new policy could provide better coverage, the increased cost may be covered by a special service payment, paid directly to the adoptive parent(s).
6. Education Services

Local school divisions are responsible for providing free appropriate education to physically and mentally disabled children. This resource must be explored before a special service payment can be made for a child who is mentally retarded, learning disabled, or has minimal brain dysfunction. If the school division refuses to provide this service, document their refusal and contact the Division of Family Services, Adoption Unit.

Local school divisions are financially responsible for all services specified in a student's Individualized Education Program, for those students not placed in private day or residential special education placements. Local school divisions also pay for aides/paraprofessionals providing instructional support and those specified in Virginia Special Education Regulations governing staffing, as well as

evaluations associated with special education. All services specified in a student's IEP for private day or residential special education placements are funded through CSA. The special education component of a private residential placement made for non-education reasons (e.g., foster care, court placement) are also funded through CSA.

7. Virginia Birth-related Neurological Injury Compensation Program

This program assists parents in meeting expenses related to the disability of their child. For qualified children, the fund covers expenses not covered by insurance and other programs, and may include such items as medical or hospital expenses, rehabilitation, special equipment and lost wages. More information is available at 1-800-260-5352, or www.vabirthinjury.com.

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**PART 9
APPEALS**

OASIS: Information on appeals must be entered into OASIS. The path is: Workload, Adopt, Subsidy, Appeals.

9.A. Adoptive applicants and adoptive parents shall have the right to appeal services and guidance related issues including, but not limited to:

9.A.1 failure of the agency to provide full, factual information that the agency has about the child and the child's birth family, except information that would reveal the identity of the child's family of origin;

9.A.2 failure of the agency to inform the parents of the child's eligibility for subsidy;

9.A.3 agency decisions related to the child's eligibility for subsidy;

9.A.4 agency decisions related to subsidy payments and services; and

9.A.5 agency decisions related to changing or terminating a subsidy agreement.

Title IV-E, Section 471(a)(12). In order for a state to be eligible for payments under this part, it shall have a plan...which...provides for granting an opportunity for a fair hearing before the State agency to any individual whose claim for benefits available pursuant to this part is denied or is not acted upon with reasonable promptness.

9.B. Adoptive applicants must be informed in writing of their right to appeal items 1-6 above. This notice must be given to adoptive applicants during the home study process. A copy of the Statement of Information shared with the family, which shows that this information was given to the family, must be maintained in the child's record.

9.C Appeals Process

Appeals shall be processed in accordance with procedures established by the Virginia Board of Social Services (See Volume VII, Section I, Chapter H) and in accordance with Section 63.2-517 of the Code of Virginia. There are three levels of appeal:

- 9.C.1 Agency Conference. This conference provides an opportunity for discussion of the problem at the agency. Whenever possible, issues should be resolved at this level.
- 9.C.2 Appeal. An appeal can be brought to the Hearing Authority in the State Department of Social Services instead of or after the agency conference. After reviewing the appeal request, the Hearing Authority may:
- 9.C.2.1 Rule the appeal invalid;
 - 9.C.2.2 Rule the appeal valid and instruct the agency to take corrective action;
 - 9.C.2.3 Rule the appeal valid and grant a hearing.
- 9.C.3 Administrative Review. The Commissioner has established an Appeals Review Panel to review administrative hearing decisions upon the request of either the applicant or local board. The purpose of the panel is to make recommendations to the Commissioner regarding whether changes are needed in future guidance or in the conduct of future hearings. The Review Panel cannot change the decision of the Hearing Officer. A request for review of the Hearing Officer's decision by the Appeals Review Panel must be submitted in writing within ten (10) days of receipt of the decision.
- 9.C.4** The applicant may appeal the decision of the hearing officer to the appropriate Circuit Court. Such appeal must be made directly with the appropriate court and not with the department.
- Requests for appeals must be submitted to:
- Appeals and Fair Hearings Unit
Virginia Department of Social Services
7 North Eighth Street
Richmond, VA 23219-3301
- Effective October 27, 2009 send all appeals to:**
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

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**SECTION 10
ADOPTIVE HOME STUDY****10.A Study of the Home**

Services for adoptive applicants begin with a study that involves the adoptive applicants in a process to determine with the agency whether they can meet the needs of an adopted child. A home study shall only be completed by a licensed or duly authorized child-placing agency in accordance with regulations adopted by the Board. The study should be carried out so that it brings about increased understanding of the process and begins to prepare the applicants for adoption.

10.A.1 Preliminary Exchange of Information

The initial step should include a preliminary exchange of factual information regarding:

- 10.A.1.1 agency requirements and the reasons for them;
- 10.A.1.2 the kind of children available;
- 10.A.1.3 time for completion of the study and placement;
- 10.A.1.4 pre-placement services, including method of study of adoptive homes;
- 10.A.1.5 post-placement services; and
- 10.A.1.6 legal procedures.

10.A.2 Method of Study

The study should consist of a series of interviews in which the adoptive applicants and the worker exchange factual information, discuss emotional factors involved in adoption, and come to recognize feelings and attitudes that may affect adoption. The study process should help to establish a relationship with applicants that will make it possible for the applicants to continue to use help both during the selection and placement of the child and the post-placement period.

Once a written application has been received, the study process must be carried through to completion unless the applicants request to withdraw their application. The request to withdraw should be made in writing and documented in the record.

10.A.3 Evaluation of the Home

The final decision about whether to approve a family for placement of a child should be the responsibility of the social work staff. It

should take into consideration any findings of consultants from other professional fields. A decision to deny an application must be made in consultation with a unit supervisor or in unit staffing. The case record must clearly document the standards which were out of compliance and the rationale for the decision.

42. U.S.C.-2000d, The Age Discrimination Act of 1975, prohibits discrimination based on race, color, national origin, age, or disability.

10.A.4 Informing Applicants of Decision

During the course of the study, the applicants should be kept aware of their status with the agency. They should be helped to decide for themselves whether adoption is suitable for them, and to withdraw their application, if this is advisable. Applicants should be informed of the final decision as soon as possible.

10.B Assessment of the Family

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. The following criteria should be used as guidelines in completing an adoptive home study:

B.1 Motivation to Adopt

Key Considerations

- The degree to which the applicant(s) want to adopt
- If infertility is one reason for adoption, how have parents dealt with loss of biological child
- Messages parents have learned about adoption from their (other) experiences
- The degree to which other family members support adoption
- Perceived need adoption will meet for parents

Facts

- How long parents have considered adoption
- Reasons for adoption
- Who first spoke of adoption
- Reactions of spouse, children, significant others

- Fertility procedures undertaken
- Parents feelings about infertility
- How they've coped with the loss
- Prior experience with adoption
- Knowledge of adoption from other individuals/sources

Documentation

Notes from interviews with applicant that describe parents' reasons for adoption, their thoughts and feelings and perception of need adoption will meet and others' response to adoption

B.2 Family Background and Family Relationships

Key Considerations

- Emotional maturity, stability, physical and mental capabilities
- Ability to cope with problems, disappointments and frustrations
- Capability to accept and handle loss
- Nature and duration of family relationships
- Ability to be flexible in their expectations of others and in their role as parents
- Ability to respond to the needs of others
- Ability to accept normal hazards and risks
- Capability to take responsibility for one's own actions
- Ability to commit to another individual
- Capability to know one's strengths and limitations
- Extended family's ability to accept an adopted child as an equal member of the family, entitled to all benefits and responsibilities

Facts

- Physical description
- Date, place of birth

- Information about parents and siblings (Names, ages, location, marital status, health status, education, current employment, ages of children of siblings, others living in parents' household)
- Current relationships with parents and siblings
- Childhood experiences:
 - Parents' marital relationship
 - Parental roles each assumed
 - Disciplinary techniques
 - Communication
 - Interests/activities
 - Expression of affection
 - School experience
 - Family values
 - Religion
- Education
- Employment History
- Military service
- Health
- Mental health, counseling
- Hobbies/interests/community involvement
- Past losses and how they've coped
- Problem-solving style
- How individual's needs are met
- How difficult situations have been handled
- Amount of contact and degree of intimacy with nuclear and extended family member
- How individual has changed over time and how change has occurred, include examples of how individual has changed in response to needs of others
- Words used to describe self, strengths, limitations
- Individual's role/job in managing household
- How both positive and negative feelings are expressed

- Sources of support
- Extended family's response to adoption in general and to the particular child
- Language family members use about adoption

Documentation

Notes from interviews with applicant and other family members, autobiography or other similar written exercises. Statement from counselor, where applicable and physician's statements/medical form.

B.3 Adoption Issues

Key Considerations

- Ability to love, nurture and make a life-long commitment to a child not born to them
- Ability to accept the circumstances of a child's birth and birth family history
- Ability to demonstrate empathy for a child's birth parents
- Capacity to understand the life-long impact of adoption and to help child deal with the adoption issues of identity, loss, intimacy, control, and attachment
- Ability to understand the relationship between child development and adoption
- Capacity to develop a sense of entitlement to parent a particular child and to "claim" that child as an equal member of their family
- Capacity to accept professional and personal support
- Ability to lower expectations of child in response to child's needs
- Ability to maintain contact with significant others in child's life (including birth and former foster families and siblings)
- Willingness and ability to talk openly and comfortably about child's adoption with the family
- Understanding of search laws and willingness to offer on-going support to child if he/she decides to search
- Understanding of how attachments are formed and willingness to work at forming healthy attachments with a child even when they resist it

Facts

- Types of long-term commitments family has made in the past which have endured over time, especially during high stress times
- Knowledge of unique experiences and losses of adopted children and how they effect children's development and how children's developmental stage effects their response to trauma
- Type of life experiences that demonstrate understanding of why people make different choices than they do or are unable to make good choices and ability to show care and concern for people when they make those choices
- Words parents use to describe birth parents and why child placed for adoption
- Parents' response to core issues in adoption, how they impact them, child and birth parents and their ideas about how to deal with them
- Parents' perception of how they and child will change over time
- Parents' expectations, hopes and plans for child
- How parents define "family"
- Language parents use about adoption
- Examples of circumstances when parents have lowered expectations of others and still maintained close relationship with them
- How parents have changed over time and what provoked those changes
- Types of risks parents are willing to take
- Level and types of convictions parents have maintained with family and friends
- Parents' use of outside supports
- Knowledge of search laws and parents' feelings about search
- Examples of parents' abilities to delay gratifications
- Types of attachments parents have formed in the past
- Families' understanding of the risks associated with adoption
- How applicant plans to tell child about his/her adoption

- What the parents do if they do not want the child in the home any more
- Examples of the types of people that the parents have given up on before
- Examples of what will make parents want to "give up" on their child

Documentation

Notes from interviews with applicant, autobiography of application or other similar written information.

B.4 Quality of Marital and Other Relationships

Key Considerations

- Capacity to develop and maintain long-term relationships
- Capacity of the relationship or the single parent to sustain high levels of stress and change
- Degree of openness in the family system
- Ability to solve problems and make decisions (jointly, if married)
- Degree to which communication is open, clear, sensitive to others' needs, reflective of true feelings, responsive to the situation, consistent with behavior and effective
- Presentation of an accurate "picture" of family relationships and interactions

Facts

- Relationships with friends (length, effort made to maintain contact, how much they accept and give help and support)
- Problem-solving and decision-making styles of parent(s)
- For single parents, who do they consider, related or non-related a part of their family system
- The length of marriage. How family talks about both negative and positive events and feelings
- The ways in which affection and anger are demonstrated. How conflict is resolved
- Pattern of communication and degree to which it meets the individuals' needs

- What are marital roles? Strength and weakness and how complement each other
- What makes these people stay married to each other. Previous marriages; when and why marriage ended; what learned from experience, what do they do when they spend time together?
- If been to marriage counseling, how long and what issues addressed

Documentation

Autobiography notes from interviews. Reference letters, marriage/divorce certificates (where applicable).

B.5 Parenting Skills

Key Considerations

- Parenting style and approach to discipline
- Relationship between how you were parented and how you will or do parent
- Applicant's understanding of physical, developmental, emotional need of children
- Applicant's understanding of the impact of adoption on children in the home and family routines
- Ability to develop and adjust realistic expectations of children
- Ability to separate their needs from child's needs
- Ability to communicate effectively
- Ability to assume responsibility for care, guidance, protection of children
- Willingness to try new parenting approaches in order to more effectively meet child's needs and manage behavior
- Willingness to formulate a plan for child's care, if one or both parents are deceased

Facts

- Experience with children
- Applicant's communication and problem-solving style
- Types of nurturing behaviors applicants demonstrate

- Applicant's views of children, anger and types of behaviors they are most/least comfortable with
- How family routine will be affected by adoption
- Applicant's plans for child, in the event of the applicant's death
- How family expresses affection and anger
- Knowledge of child development and changing needs and expectations of children over time
- Methods of discipline used
- Expectations of children
- Family routine
- Description of parenting style of family of origin (discipline, communication, values, experience of affection and anger, history of abuse/neglect)
- Criminal and child abuse/neglect history
- Description of children in home (age, developmental and emotional needs, perceived impact of adoption)
- How applicant identifies his/her needs, how they separate their needs from needs of others and how they get their needs met
- Self-esteem of applicant
- Examples of how applicant is able to delay gratification
- Examples of how applicant has been open to new ideas and has been willing to try a new approach to problems they have been faced with

Documentation

Autobiography or other similar exercises, notes from interviews, reference letters, and corporal punishment statement.

B.6 Home and Community

Key Considerations

- Health and safety of environment

Facts

- Space for play and privacy

- Accessibility of community resources
- Description of house and neighborhood
- Description of family's proximity to community resources
- A written evacuation plan in case of fire
- Cleaning supplies and other toxic substances are stored away from food and out of the reach of children
- Water supply and sewage disposal system meets local ordinances.

Documentation

Notes regarding worker's observations

B.7 Financial Circumstances

Key Considerations

- Ability of applicant to meet the financial needs of adopted child and family

Facts

- Financial resources of applicant
- How applicant manages those resources

Documentation

Financial statement, employer's verification (see sample employer's reference letter)

B.8 Type of Child Applicant Can Parent

Key Considerations

- What applicant needs from a child and ability of child to meet that need
- Ability of applicant to meet special needs of children
- For Parental Placements adoption, applicant's ability to manage legal and emotional risks and maintain ongoing contact with birth parents
- For intercountry adoption, applicant's ability to manage health risks and unknown background of child
- For Special Needs adoption, applicant's ability to manage special needs of the child

Facts

- Types of behaviors and background issues applicant is most/least comfortable with and able to handle
- Applicant's description of child(ren) they want to adopt
- Worker's assessment of the needs of the applicant and the degree to which those needs can be met by the type of child requested
- Worker's assessment of the needs of the child and the degree to which those needs can be met by the applicant

Documentation

Written summary of worker's assessment

10.C Restrictions On The Provisions of Adoption Services To Agency Staff and Other Individuals

State laws restrict the provision of adoption services in the following situations:

10.C.1 Home Studies and Placement Supervision

When an individual who has major decision-making responsibilities for children in the agency's care applies to adopt a child, he/she shall be referred to another child-placing agency for study and placement supervision. The individuals include Board members, agency directors, supervisors and social workers.

10.C.2 Conflict of Interest

To avoid any conflict of interest, an agency staff who **has** decision-making responsibility or is in the capacity to provide counseling to a birth parent shall not make a self or family referral in order to adopt the child which is the subject of the counseling.

10.D Adoptive Home Standards

The State Board of Social Services has established standards for prospective adoptive homes.

[Section 63.2-217](#), Code of Virginia. The State Board shall make such rules and regulations....as may be necessary or desirable to carry out the true purpose and intent of this title.

Definitions

"Adoptive parent(s)" means a provider who gives parental care and establishes permanent family relationships for children in the provider's home for purposes of adoption. Standards apply to adoptive parents until the final order of adoption is issued.

"Adult" means any individual 18 years of age or over.

"Agency" means the local welfare/social service agency.

"Child/children" means any individual under 18 years of age or any individual who is in the custody of a local welfare/social service agency and is 18 to 21 years of age.

"Child protective service central registry" means the centralized system in Virginia for collecting information on complaints and dispositions of child abuse and neglect.

"Corporal punishment" means any type of physical punishment inflicted in any manner upon the body of a child including but not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

"Parent/guardian" means the biological or adoptive parent or legal guardian(s) of a child.

10.D.1 Age

The Adoptive applicant shall be at least 18 years of age.

10.D.2 Criminal records

10.D.2.1 The adoptive applicant(s) and adult household members who come in contact with the child shall identify any criminal convictions through a sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth. The adoptive applicant(s) and adult household members must be willing to consent to a search of Federal Bureau of Investigation and Virginia Central Criminal Records.

10.D.2.2 PROCESS FOR OBTAINING CRIMINAL RECORD CHECK

The adoptive parent(s) shall submit to fingerprinting and provide personal descriptive information to be forward with the fingerprints through the central records exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check regarding such applicant and adult household member. (Section 63.2-901.1 *Code of Virginia*).

A search of the **Virginia** Child Abuse and Neglect Registry is required. A search of abuse and neglect registry must also occur for any other state where a prospective adoptive parent or other adult in the household has resided in the last five

years pursuant to the Adam Walsh Child Protection and Safety Act of 2006.

[Section 63.2-901.1](#) Criminal history and central registry check for placement of children. Each local board and licensed child-placing agency shall obtain and consider, in accordance with regulations adopted by the Board, criminal history record information from the Central Criminal Records Exchange and the Federal Bureau of Investigation through the Central Criminal Records Exchange and the results of a search of the child abuse and neglect central registry of any individual with whom the local board or agency is considering placing a child on an emergency, temporary or permanent basis,...

[Section 63.2-901.1.B.1](#) Background checks pursuant to this section require the following: A sworn statement or affirmation disclosing whether or not the individual has a criminal conviction or is the subject of any pending criminal charges within or outside the Commonwealth and whether or not the individual has been the subject of a founded complaint of child abuse or neglect within or outside the Commonwealth;...

10.D.2.2.1

The Office of Background Investigations (OBI)

The Office of Background Investigation is responsible for processing fingerprint background checks.

Fingerprint cards and related forms should be requested through the OBI. Each background investigation packet is to be forwarded to the OBI and includes the Request for Criminal Background Investigation form. One fingerprint card and a check or money order made payable to the Treasurer of Virginia **is required** for each individual that needs a fingerprint background check completed. The initial fee is waived for the local department of social services.

Application

The Application for Agency Approved Provider, (032-02-138), requires the adoptive applicant to identify any criminal convictions in or out of the Commonwealth. The applicant must sign the Application to indicate his/her willingness to consent to a search of criminal records.

10.D.2.3

Whose Record to Search

A national search, which includes a statewide criminal record search must be done on the adoptive applicant and all other adult household members. This must be done regardless of the response about criminal records on the Application. These searches should be repeated at the time of renewal.

10.D.2.4 Information From Local Police Records

Local police have access to any available criminal history record information. The local agency should explore what criminal record information is available through the local police. Information, if available, may be on local convictions only, on statewide convictions, or on convictions from other states. In exploring this question with local police, the local agency should also determine what authorization is necessary from the person whose record is being searched.

10.D.2.5 Information From the Central Criminal Records Exchange To Include Criminal History Search and Sexual Offender Registry

Virginia State Police maintain criminal history record information for arrests and convictions in Virginia. The Central Criminal Records Exchange should be queried by using the form entitled Criminal History Record Request, SP-230.

Adoptive Parent Applicants

[Section 19.2-389, A. 8](#), Code of Virginia. Criminal history record information shall be disseminated...only to:...Public or private agencies when and as required by federal or state law or interstate compact to investigate applicants for foster or adoptive parenthood subject to the restriction that the data shall not be further disseminated by the agency to any party other than a federal or state authority or court as may be required to comply with an express requirement of law for such further dissemination.

10.D.2.6 Criminal Record Information From Other States

The Office of Background Investigation can be contacted regarding criminal record information on arrests and convictions occurring in other states through the fingerprint checks.

10.D.2.7 The adoptive applicant and any adult household members who come in contact with clients shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of clients.**10.D.2.8 Information Received From the Central Criminal Record Exchange**

If no record exists on the individual, the Central

Criminal Records Exchange will stamp and return the form to indicate that.

If a record exists, the information furnished on a "rap" sheet will include identifying information, contributing agency, date of occurrence, charge, and disposition. Information on adoptive parents will include arrest as well as conviction information. Information on all household members will only include information on convictions.

The Central Criminal Records Exchange does not contain information on certain offenses. These include driving a motor vehicle, etc, while intoxicated; disorderly conduct; trespassing after being forbidden to do so; and class III and IV misdemeanors (such as gambling, slander, drunk in public, etc.).

10.D.2.8.1 Information Received from the National Background Check

The complete list of barrier crimes can be found in the *Code of Virginia, Section 63.2-1719* or click on the Section Code [63.2-1719](#)

10.D.2.9 Determining When Criminal Convictions Jeopardize Clients

10.D.2.9.1 An adoptive applicant must be denied if the applicant or any adult household member who comes in contact with the child has been convicted of:

- (i) murder;
- (ii) abduction and kidnapping (Section 18.2-47 A)
- (iii) abduction for immoral purposes (Section 18.2-48, Code of Virginia);
- (iii) criminal sexual assault (Section 18.2-61-67.10, Code of Virginia);
- (iv) pandering (Section 18.2-355, Code of Virginia);
or
- (v) obscenity offenses.
- (vi) failing to secure medical attention for an injured child (Section 18.2-371.1, Code of Virginia);
- (vii) crimes against nature involving children

(Section 18.2-361, Code of Virginia);

- (viii) taking indecent liberties with children (Sections 18.2-370 and 18.2-370.1, Code of Virginia);
- (ix) abuse or neglect of children (Section 18.2-371, Code of Virginia);
- (x) felony conviction of a crime against children, including incest (Section 18.2-366, Code of Virginia);
- (xi) felony conviction of assault and battery against a family or household member (Section 18.2-57, Code of Virginia); or
- (xii) felony convictions for physical assault or battery other than against a family or household member (Section 18.2-51, Code of Virginia), or
- (xiii) drug-related offenses within the past five years.

10.D.2.9.2 An adoptive applicant must also be denied if the applicant is a person who has been convicted of a violent sexual offense or is required to register on the sex offender & crimes against minors registry. (Section 63.2-1205.1 *Code of Virginia*)

10.D.2.10 The local agency will need to exercise judgment in the approval or denial of adoptive applicants where convictions of other felonies and misdemeanors are found. The adoptive applicant's record should document the reasons for the approval or denial. No denial should be based solely on arrest information where no conviction has been made.

Exceptions

10.D.2.10.1 If an adoptive applicant was convicted of a felony drug possession and ten (10) years have passed since the conviction; and his/her civil rights have been restored by the Governor, the applicant may be approved.

[Section 63.2-1721.G](#), *Code of Virginia*, Notwithstanding any provision to the contrary contained in this section, a child-placing agency may approve as an adoptive or foster parent an applicant convicted of felony

possession of drugs, who has had his civil rights restored by the Governor, provided 10 years have elapsed following the conviction.

- 10.D.2.10.2 If an applicant has been convicted of a misdemeanor, a child-placing agency may approve them as an adoptive or foster parent if the applicant was not convicted of more than one misdemeanor of assault and battery, as defined in Section 18.2-57, Code of Virginia, not involving abuse, neglect or moral turpitude, or a minor, provided 10 years have elapsed following the conviction.

[Section 63.2-1721.E](#), Code of Virginia, ... a child-placing agency may approve as an adoptive or foster parent an applicant convicted of not more than one misdemeanor as set out in § 18.2-57 not involving abuse, neglect, moral turpitude, or a minor, provided 10 years have elapsed following the conviction.

10.D.2.11 Confidentiality of Criminal Record Information

- D.2.4.1 By State Code, criminal record information can only be used for the purpose intended. It must not be shared with anyone other than the individual identified in the record. For example, conviction information on a household member cannot be shared with the adoptive applicant. However, the adoptive applicant could be told that he is being denied because this standard is not met.
- D.2.4.2 By State Code (Section 19.2-389, A, 8), however, information on adoptive parents may be shared with a federal or state authority or court only if required to comply with a requirement in law for such dissemination.

10.D.3 Division of Motor Vehicle Records

The adoptive applicant shall provide a current DMV record. This record can be obtained from any local office of DMV but must be requested by the adoptive applicant.

10.D.4 Child abuse or neglect record

- 10.D.4.1 The adoptive applicant and adult household members who come in contact with the child shall consent to a search of the child protective service central registry.

D.4.1.1 Application

The Child Protective Services Release of Information Form, (032-02-0151-04-eng), is required for all adult household members who come in contact with the child to consent to a search of the central registry.

D.4.1.2 When to Search

A search must be done for initial approval of an adoptive applicant.

A search may be repeated at the time of renewal. If a local agency has a good communication system between the CPS staff and staff approving adoptive applicants, staff who approve adoptive applicants may already be aware of any investigations done on individuals applying to adopt.

D.4.1.3 Routine Search of Central Registry

A copy of the completed Child Protective Services Release of Information Form, (032-02-0151-04-eng), is sent to the Central Office Child Protective Service Central Registry through courier service. The agency staff person should be sure that information on the application is legible and that the agency information is on it, and the applicant signs the form before a notary public.

Central Registry staff will check the adoptive applicant and other appropriate individuals to determine if the registry contains information. They will return the copy of the application with information on the findings on the same form.

It will also be necessary to check the abuse and neglect registry for any state the applicant has lived in the past five years, if that state maintains a registry as required by the Adam Wash Act of 2006. The Virginia Department of Social Services maintains a list of state child abuse and neglect central registry information.

D.4.1.4 Emergency Search of Central Registry

If an applicant is being considered for Emergency Approval, the local agency can request the search by telephone using the matrix code. The Release of Information Form, must then be forwarded to the Central Registry within five days.

- 10.D.4.2 The adoptive applicant or adult household members who come in contact with the child shall not have a founded child abuse or neglect record in the child protective service central registry.

10.D.5 Interview, references, and employment history

- 10.D.5.1 The adoptive applicant shall participate in interviews with the agency. At least one interview with must occur in the applicant's home at the time of the initial approval and at renewal. All household members should be interviewed.

- 10.D.5.2 The adoptive applicant shall provide a minimum of three references from persons who have knowledge of the applicant's ability, skill, or experience in child care and who shall not be related to the applicant.

D.5.2.1 Application

The adoptive applicant must list three references on the Application For Agency Approved Provider (032-02-0138-00-eng).

D.5.2.2 Follow-up

The local agency must check references for the initial approval. References do not need to be rechecked at renewal.

The local agency may contact references by telephone, face-to-face interview, or request a reference in writing. References which are not written must be documented in the adoptive applicant's record by the worker.

- 10.D.5.3 The adoptive applicant shall provide information on employment history.

D.5.3.1 Application

The adoptive applicant must list previous employment on the Application of Agency Approved Provider.

D.5.3.2 Employer Reference

The local agency may check employment by telephone, face-to-face interview, or request it in writing.

- 10.D.5.4 The agency will use the interviews, references, and employment history to assess that:

- D.5.4.1 The adoptive parent(s) demonstrates a capacity to love and nurture a child born to someone else;
- D.5.4.2 The adoptive parent(s) can accept the child for his own sake without expecting him to resolve family problems or fulfill family ambitions;
- D.5.4.3 The married adoptive parents show marital stability and mutual satisfaction with each other.
- 10.D.5.5 Adoptive parents shall disclose financial information
 - D.5.5.1 Financial information must include:
 - (i) income from all sources
 - (ii) savings and investments
 - (iii) property
 - (iv) debts
 - D.5.5.2 The purpose of this is to determine the financial ability of the adoptive parents to support a child.
- 10.D.6 Training
 - The adoptive applicant shall attend any orientation and training required by the agency.
 - 10.D.6.1 The local agency should provide, at a minimum, some basic orientation to the adoptive applicant.
 - 10.D.6.2 The local agency may provide any additional training it feels necessary.
- 10.D.7 Medical requirements
 - The adoptive applicant shall submit the results of a physical examination performed by a licensed physician, or local health department, within the past twelve months.
 - 10.D.7.1 The physical examination shall address whether the adoptive applicant has any communicable diseases, to include tuberculosis, HIV, and AIDS.
 - 10.D.7.2 If the local agency needs verification to determine if the adoptive applicant is mentally capable, the agency should request a mental health examination.
 - 10.D.7.3 The physical or mental health examination may be paid by the local agency as an administrative cost charged to services.

10.D.8 Discipline of children

During the adoptive supervisory period, the adoptive applicant shall not use corporal punishment. Corporal punishment includes but is not limited to hand spanking, shaking a child, forcing a child to assume an uncomfortable position, or binding a child.

10.D.9 Physical accommodations

10.D.9.1 The home shall be sufficient to ensure the on-going safety and health of the child.

10.D.9.2 The home shall be in compliance with all local ordinances.

10.D.10 Capacity

10.D.10.1 There is no specific limit on the number of children adoptive parents can adopt. The local agency should assess the adoptive parents and their family composition on a case-by-case basis. Where there may be a question about family size, the assessment should include:

D.10.1.1 The capacity and real desire of the parent(s) to extend parenthood to another child(ren);

D.10.1.2 The parent's ability to cope with and seek help for any problems that might occur as a result of the introduction of another child(ren) into the family (problems such as rivalry between children);

D.10.1.3 The needs of the children in the home and the child(ren) to be placed for adoption;

D.10.1.4 The adjustment of a newly introduced child with the other children; and

D.10.1.5 Adequacy of space and living conditions in the home to promote the health, safety, well-being, and self-respect of the family.

10.D.11 Approval Regulations

10.D.11.1 Approval period

The approval period for an adoptive applicant is 36 months.

Section 63.2-1231, Code of Virginia, specifies that any home study conducted pursuant to this section for the purpose of parental or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the

Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the home study.

D.11.1.1 Application

An application for agency approved provider, should be completed by each applicant provider for the initial approval. It is not necessary for a renewal.

If there is no need for a family for healthy infants, the local agency does not have to take an application but should refer the family to a licensed, child-placing agency.

If the agency has any children in foster care who are unlikely to return home or be placed with relatives, the agency must accept all applications from families interested in adopting children with special needs.

The application, once received, should be assessed as quickly as possible.

A copy of the standards should be given to each applicant provider.

D.11.1.2 Compliance form

A compliance form for agency approved provider (032-02-139A-02-eng), should be completed for each provider. Part b of this form is only applicable to the out-of-home provider. This must be used to document compliance with standards for foster parents.

D.11.1.3 Expiration of approval period

The expiration date for the approval period should be set for the last day of the month in which approval is granted and be two years hence unless the approval is emergency, provisional, or suspended.

10.D.12 Allowable Variance

The adoptive applicant may receive an allowable variance on a standard if the variance does not jeopardize the safety and proper care of the child or violate federal, state, or local law.

10.D.12.1 Procedures for requesting a variance

D.12.1.1 The local agency makes the decision as to whether or not to request a variance. The applicant cannot

request a variance without the local agency's agreement.

D.12.1.2 The local agency should submit a written request for a variance.

D.12.1.3 The request must be signed by the local agency director.

D.12.1.4 The request should be directed to the appropriate regional office.

D.12.1.5 The request should specify, at a minimum:

- (i) The standard(s) for which a variance is requested,
- (ii) The length of time for which a variance is requested,
- (iii) What specific reasons or circumstances exist in the situation that justify requesting the variance, and
- (iv) What precautions are being taken to ensure the safety and protection of clients.

10.D.12.2 Approval or denial of a variance

The decision of the regional office is final unless changed as a result of an appeal.

10.D.13 Renewal Process

The agency will re-approve the applicant prior to the placement of a child if the home study is older than 36 months.

The following areas do not need to be reexamined unless the local agency feels there is a need:

10.D.13.1 Application

No renewal application is necessary.

10.D.13.2 Child Protective service central registry

D.13.2.1 This check is not necessary if the local agency maintains good communication between staff approving providers and child protective service staff.

D.13.2.2 If the local agency does recheck the central registry, a new application does not need to be signed to do the search.

10.D.13.3 Medicals

10.D.13.4 References

10.D.13.5 Employment history

10.D.13.6 The compliance form for agency approved provider, should be used to document the renewal process. It must be used to document renewal for foster parents.

10.D.14 Revocation of approval

If the adoptive applicant does not continue to meet standards, the approval must be revoked.

10.D.15 Notification of action

The local agency must notify the adoptive applicants in writing, specify the reasons for revocation, and indicate the applicant's right to file a grievance. The appendix contains a sample letter.

10.D.16 Right to Appeal

The adoptive applicant shall have the right to appeal the actions of the agency. Refer to Part 9 for information on the appeals process.

10.D.17 Local Agency Record Keeping

10.D.17.1 The local agency must maintain a separate file on each approved adoptive applicant.

D.17.1.1 The file should contain:

- (i) Application for agency approved provider, (032-02-0138-00-eng), or another form of an application.
- (ii) Compliance form for agency approved provider, (032-02-139A-02-eng).

D.17.1.2 Other information

Other information includes medical statements, CPS central registry check, criminal record check, and correspondence.

OASIS: All agency adoptive applicants need to be entered into the Resource Subsystem of OASIS when they are approved.

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Section 11

Virginia Putative Father Registry

11.1 The Virginia Putative Father Registry

The Virginia Putative Father Registry is a confidential database of registered putative fathers. The purpose of the Virginia Putative Father Registry is to protect the rights of a putative father by allowing them to be notified of termination of their parental rights and/or adoption proceedings regarding a child that he may have fathered.

About The Virginia Putative Father Registry:

- The 2006 General Assembly passed into law Section 63.2-1249, which established the Virginia Putative Father Registry in the Virginia Department of Social Services.
- The Virginia Putative Father Registry provides a mechanism to identify putative fathers who desire to be notified of termination of parental rights and/or adoption proceedings regarding a child they may have fathered.
- If the conception or birth of a child occurred in another state and that state has a Putative Father Registry, the male should register in that state in addition to registering with the Virginia Putative Father Registry to protect his rights.
- The Virginia Putative Father Registry is not intended to start a paternity proceeding. However, the registration may be used to help establish paternity.

11.2 Who May Register

Any putative father is required to register if he would like to receive notice of an adoption proceeding or termination of parental rights for a child he may have fathered.

A putative father is the alleged father of a child. A putative father must register with the Virginia Putative Father Registry if he wants to protect his rights to receive notice of termination of parental rights and/or adoption proceeding regarding a child he may have fathered.

Any male who desires to be notified of an adoption proceeding of, or termination of parental rights regarding, a child that he may have fathered shall register with the Virginia Putative Father Registry. This may include a male who currently lives in Virginia or who visited Virginia at the time of conception of the child or birth of the child.

11.3 Who Does Not Have To Register

A male who has an established or is establishing a legal relationship with his child does not have to register for protection of his rights and to receive notice of an adoption proceeding or termination of parental rights.

As indicated in section 2.B.1 of the guidance section for Chapter C, the following are legal fathers:

- An acknowledged father is a male who has established, by voluntary written statement, a relationship between himself and the mother of the child that he is the father. The statement is made under oath and in writing agreeing to the paternity.
- An adjudicated father is a male with a judgment or court order establishing the paternity of a child.
- A presumed father is a male married to the mother of the child or was married to the mother of the child and the child was born within 300 days after the termination of the marriage.

Any male that begins paternity proceedings before a petition is filed for adoption or termination of parental rights is not required to register with the Virginia Putative Father Registry.

Section 63.2-1249 A putative father registry shall be established in the Department of Social Services.

Section 63.2-1250A man who desires to be notified of a proceeding for adoption of, or the termination of parental rights regarding a child he may have fathered shall register with the putative father registry before the birth of the child or within 10 days after the birth....

Section 63.2-1250.B, A man will not prejudice any rights by failing to register if:

1. A father-child relationship between the man and the child has been established pursuant to Section 20-49.1, 20-49.8, or if the man is a presumed father as defined in Section 63.2-1202; or
2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent or waive adoption is filed in juvenile and domestic relations court, or a petition for adoption or a petition for the termination of his parental rights is filed with the court.

11.4 How to Register

A male wishing to register must complete a Virginia Putative Father Registry registration form.

A registration form (032-02-500-00-eng) can be obtained at any of the local departments of social services, by downloading an application from the Virginia Putative Father Registry web site at www.VAPutativeFather.com, or by contacting 1-877-IF-DADDY (1-877-433-2339) to request that an application to be mailed to them.

The following information must be provided by the male on the registration form:

- his name, date of birth, social security number;
- his driver's license number and state of issuance;
- his home address, telephone number, employer;
- the name, date of birth, ethnicity, address and telephone number of the putative mother, if known;
- state of conception (i.e. Maryland, North Carolina, California, etc.);
- place and date of birth of the child, if known; and,
- name and gender of the child, if known.

Other identifying information about the father, putative mother or child may be requested.

The completed form is signed and should be mailed to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219

**Effective October 27, 2009 mail to:
Virginia Putative Father Registry**

**Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901**

Once registered with the Virginia Putative Father Registry, a male is known as a registrant.

11.5 Timely Registration

A male must register in a timely manner in order to protect his rights. A registration is considered timely when it is received:

- 1) before the child is born; or
- 2) within 10 calendar days after the child is born, or
- 3) within 10 days from the mailing of notice from the child placing agency or adoptive parent of an adoptive plan for a child; or
- 4) within 10 days upon the discovery of fraud by the mother. Fraud is considered **to have occurred in the following examples**:
 - a) that a pregnancy was terminated or the mother miscarried when actually the baby was born, or
 - b) the male was told the child had died when actually the baby is alive.

The child-placing agency or adoptive parent is required to give notice of the adoptive plan to the putative father. Typically an agency would provide notice in an agency adoption and an adoptive parent would provide notice in a non-agency placement.

Section 63.2-1202.d.Verification of compliance with the notice provisions of the Putative Father Registry shall be provided to the court.

All registrations received by the Department will be entered into the Virginia Putative Father Registry.

Section 63.2-1250.A ...A man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding a child that he may have fathered shall register with the Putative Father Registry before the birth of the child or within 10 days

after the birth.

Section 63.2-1250.C ...Upon the discovery of the fraud the man shall register with the Putative Father Registry within 10 days.

Section 63.2-1250.EWritten notice of the existence of an adoption plan and the availability of registration with the Putative Father Registry shall be provided to the man's last known address. The man shall have no more than 10 days from the date of such mailing to register. The mailing may be done either prior to or after the birth of the child.

11.6 Confirmation of Receipt of Registration

If a male would like to receive confirmation that he has been registered, he may contact the Virginia Putative Father Registry at 1-877-IF-DADDY.

11.7 Updating Registration

The registrant shall promptly notify the Virginia Putative Father Registry of any changes including but not limited to change of address.

The registrant can update his registration by completing another Virginia Putative Father Registry registration form. The registrant indicates that he is updating his registration by marking the box on the registration form with an X or check mark stating it is an updated registration. The registrant updates the information that has changed, signs the registration form and mails the form to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219

Effective October 27, 2009 send all updates to:
Virginia Putative Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

11.8 Rescinding or Withdrawing Registration

The registrant has a right to rescind his registration at any time.

To rescind a registration, the registrant must complete another Virginia Putative Father Registry registration form.

The registrant marks the box on the registration form indicating that the registration is being withdrawn for a specific registration.

The registrant must rescind a registration form for each registration with a different name of a putative mother or child.

11.9 Access to the Virginia Putative Father Registry

- The Virginia Putative Father Registry is confidential and exempt from the Virginia Freedom of Information Act.

Section 63.2-1251.C. Information contained in the registry shall be exempt from disclosure under the Virginia Freedom of Information Act (§2.2-3700 et seq.).

- The information in the database shall only be released to the authorized entities:
 - The court or a person designated by the court
 - A designated person must submit documentation from a court signed by a judge indicating that they have been designated by the court
 - The mother of the child who is the subject of registration
 - The mother must submit proof of being the mother of the child by providing a copy of the birth certificate and notice from the Virginia Putative Father Registry of being listed in it
 - A licensed child-placing agency
 - A support enforcement agency
 - An agency authorized by law to receive such information
 - 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
 - A party of an adoption proceeding may be a petitioner in a termination of parental rights or adoption proceedings such as a local department of social services or an adoptive parent. The foster parent who is not adopting is not party to the termination of

parental rights or adoption proceeding for the purposes of the registry

- A putative father registry in another state

11.10 Search of the Virginia Putative Father Registry:

A search of the Virginia Putative Father Registry shall be conducted for all adoptions except for children who have been adopted according to the laws of a foreign country or if the child was placed in Virginia from a foreign country in accordance with §63.2-1104 for the purpose of adoption.

Any petitioner, who files a petition for the termination of parental rights or for an adoption proceeding, shall request a search of the Virginia Putative Father Registry for any putative father.

A petitioner who requests a search of the Virginia Putative Father Registry is called a requestor. The requestor is an authorized person, agency or organization listed in section 12.9 above.

The Virginia Putative Father Registry only conducts searches of the Virginia Putative Father Registry. If the birth and/or conception occurred in another state, the requestor must request a search of the Putative Father Registry in the other state. Staff at the Registry is available to assist in obtaining contact information for a Putative Father Registry in another state by calling 1-877-IF-DADDY (1-877-433-2339).

The requestor completes the Virginia Putative Father Registry Request to Search Form. The Request to Search Form (032-02-0501-00-eng) can be obtained at a local department of social services, may be downloaded at the Virginia Putative Father Registry web site at www.VAPutativeFather.com or by calling 1-877-IF-DADDY to request a form be mailed or faxed.

Upon satisfaction of documentation requirements, the Department will conduct a search of the Virginia Putative Father Registry, furnish a certificate that a search was conducted and include an attachment of any findings of the search to the certificate.

The Department will furnish within four business days from receipt of a request from a court, agency or individual:

- 1) a signed certificate stating that a search was completed; and

2) the findings of the search.

The Department will mail the certificate using the United States mail or at the requestor's expense have the certificates, along with the findings of the search, delivered by overnight mail, in person, by messenger, by facsimile or other electronic communication.

The certificate of search and findings shall be filed with the court before an adoption proceeding can conclude.

A copy of the certificate of search shall be maintained in the case record of the child-placing agency. The social worker shall file a copy of the certificate of search and the findings with the adoption record.

If a search of the registry does not identify a match to the child who is the subject of the search, the social worker should gather and explore other information to locate and identify the name of the father.

11.11 Compliance with Notice Provisions

It is the responsibility of the agency to provide evidence that the agency complied with the following provisions of the Virginia Putative Father Registry:

- notice to a known putative father, and/or
- notice to the putative father regarding his rights

If the identity of the putative father and whereabouts are reasonably ascertainable, a written notice of the adoption plan and availability of registration with the Virginia Putative Father Registry must be sent by certified mailed to the putative father's last known address (Section 63.2-1250.E).

The evidence must be submitted to the courts when filing the petition that notice was sent to the putative father.

- **PART 12**
FORMS

The following forms are available in OASIS:

Adoption Progress Report
AREVA Child's Registration Form
AREVA Family Registration Form
AREVA Change of Status Form
Annual Affidavit
ICAMA 6.01, 6.02, 6.03

The following forms are available as Word documents at
<http://localagency.dss.virginia.gov/divisions/dfs/ap/forms.cgi>.

Adoptive Home Placement Agreement
Adoption Assistance Agreement
Consent Form
Commissioner's Confidential
Report Application for Adoption
Assistance
Report of Investigation
Agency Approved Provider Compliance Checklist
CPS Release of Information
Criminal History Record Request
Adoptee Application for Disclosure
Post-Adoption Contact and Communication
Agreement Post-Adoption Contact and Communication
Fact Sheet
Post-Adoption Contact and Communication Benefits and Limitations
Virginia Putative Father Registry Registration Form
Virginia Putative Father Registry Request to Search Form

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VIRGINIA DEPARTMENT OF SOCIAL SERVICES

ADOPTION-NON-AGENCY PLACEMENT
AND OTHER COURT SERVICES

October 2009

VOLUME VII, SECTION III, CHAPTER D

INTRODUCTION

This chapter provides guidance and procedures for non-agency adoption placements, other court ordered services, adoption searches, inter-country adoptions, putative father registry, and close relative placement.

NON-AGENCY PLACEMENTS FOR ADOPTION

Adoption is a social and legal process which establishes the relationship of parent and child between people who do not have this relationship by birth. It provides the same rights and obligations that exist between children and their birth parents.

Virginia statutes allow a child to be placed with either an unmarried individual or a married couple (**Sections 63.2-1225 & 63.2-1232.6 of the Code of Virginia**). **In addition Section 63.2-1208 of the Code of Virginia requires that the petitioner is morally suitable to adopt.**

Adoption procedures are governed by Chapter 12 of the *Code of Virginia*. There are only two types of adoptive placements that are allowed by Virginia law. These are agency placements and non-agency placements.

[Section 63.2-1200](#), *Code of Virginia*, A child may be placed for adoption by: a licensed child-placing agency; local board; the child's parent or legal guardian if the placement is a parental placement; and any agency outside of the Commonwealth that is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates.

Agency placements occur when the child is in the custody of a local department of social services or licensed child-placing agency. A placement for adoption can be made by a licensed child-placing agency, local board or any agency outside of the Commonwealth that is licensed or otherwise duly authorized to place children by the laws under which it operates. In an agency placement, all parental rights are terminated, custody with authority to place for adoption is granted to the agency, and the agency consents to the child's adoption. See Volume VII, Section III, Chapter C for guidance governing agency placements.

A non-agency placement occurs when the child is not in the custody of an agency. In a non-agency placement, the birth parents or legal guardian(s) consent to the adoption, and parental rights are terminated by entry of the final order of adoption.

Except for licensed or duly authorized child-placing agencies, only birth parents and legal guardians are allowed to place a child for adoption in Virginia. Although anyone

may provide assistance to birth parents in locating a prospective adoptive family and to adoptive parents in locating a child, only birth parents and legal guardians may actually place the child for adoption.

There are basically four different types of non-agency adoptions. These are stepparent adoptions, parental placement adoptions, close relative adoptions, and adult adoptions. Guidance and procedures governing each type of adoption are listed in the following pages.

OTHER COURT ORDERED SERVICES

In addition to ordering the agency to provide services for children placed for adoption, the court may also order the agency to conduct other court ordered services.

Other court ordered services involve custody investigations or supervised visitation. "Custody investigation" means a court ordered method of gathering information regarding a child whose custody, visitation, or support is in controversy or requires determination. Custody investigations are usually requested in divorce situations.

"Supervised visitation" is another court ordered service. Supervised visitation means supervision of the visits by a court appointed representative. There are no standardized procedures or formats for conducting supervised visitation. The local court will advise the agency on any preferred procedures or formats.

"Mediation" is another court ordered service. Mediation is used in custody disputes. It is a means for the parties to work out arrangements regarding custody and visitation between themselves in a non-adversarial way. Mediation requires specific training and is not included in this chapter.

ADOPTION SEARCHES

The Adoption Unit, acting on behalf of the Commissioner of Social Services, may request the agency to conduct an adoption search. An "adoption search" means interviews and written or telephone inquiries made by an agency to locate and advise the birth parents or siblings of an adult adoptee's petition for information from a closed adoption record. An adoption search includes a written report submitted to the Adoption Unit of the results of the search. It may also include facilitating reunions of the parties.

FEES FOR COURT ORDERED SERVICES

The petitioners, the respondent or both may be charged a fee for some court ordered

services provided by local departments of social services. Fees for court ordered services are discussed in Section 9 of this manual.

INTER-COUNTRY ADOPTIONS

An inter-country adoption is when the petitioners have adopted a child from a foreign country. In most inter-country adoptions, the adoptive parents are encouraged to re-adopt in Virginia.

Definitions of Fathers

1.A

This section includes the definitions of fathers. The definitions of fathers apply to this Chapter D of this manual. These definitions do not apply in surrogacy situations.

An Acknowledged Father is a man with a relationship with a child established by:

A voluntary written statement between the man and the mother of the child made under oath agreeing to the paternity and confirming that prior to signing the acknowledgement, that the parties were provided with a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences arising from the signed acknowledgement. The acknowledgement may be rescinded by either party within 60 days from the date it was signed, after which time the acknowledgement shall have the same legal effect as a judgment. (Section 20-49.1, *Code of Virginia*)

An Adjudicated Father is a man with a judgment or order from a court establishing paternity of a child. (Section 20-49.8, *Code of Virginia*)

A Presumed Father is the man that:

- 1) is married to the mother and the child is born during the marriage; (Section 63.2-1202.D.1, *Code of Virginia*)

Or

- 2) was married to the mother and the child was born within 300 days from the date of their separation as evident by a written agreement, or decree of separation, or within 300 days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce; (Section 63.2-1202.D.2, *Code of Virginia*)

Or

- 3) before the birth of the child, he and the mother of the child, married each other in apparent compliance with the law, even if the attempted marriage is, or could be declared invalid, and a child was

born within 300 days of their separation, as evidence by a written agreement, or decree of separation, or within 300 days after the marriage was terminated by death, annulment, declaration of invalidity, or divorce. (Section 63.2-1202.D.3, *Code of Virginia*)

A Birth Father is the man with the genetic relationship to a child that indicates the child is an offspring of the man.

A Putative Father is the alleged father of a child born out of wedlock.

A registered putative father is one who has completed a registration for The Virginia Putative Father Registry and mailed the registration to the Virginia Department of Social Services and for whom the registration has been entered into The Virginia Putative Father Registry database.

1. STEPPARENT ADOPTIONS

A stepparent adoption is when the spouse or former spouse of the birth or adoptive parent is adopting the child. The regulations governing parental placement adoptions are not applicable in stepparent adoptions because no placement occurs in a stepparent adoption. In a stepparent adoption consent has either been obtained or is not required in certain circumstances as outlined in this chapter. However, when a former spouse is adopting, the consent of the birth parent is required (Section 63.2-1201.1).

The investigation and report shall be undertaken only if the court in its discretion determines that there should be an investigation before a final order of adoption is entered (Section 63.2-1242). If the court makes such a determination, the agency becomes involved when the adoption petition is filed and the circuit court enters the order of reference.

1.1.1 Case Opening

A case is opened when a petition for adoption is received from the circuit court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

1.1.1.1 Open the case.

1.1.1.2 Set up a case record

the case record should contain the following documents, if applicable:

all court orders,

all required documentation,

Report of Investigation,

all correspondence, and

narrative.

— If two children are on the same petition, only one case is

needed.

1.1.2 Review the petition and order of reference

The petition for adoption is usually accompanied by an order of reference, which is an order from the court directing an agency to make an investigation and report.

- 1.1.2.1 The petition and order of reference must be reviewed to ensure the petition is filed in the court having jurisdiction 1) where the petitioner(s) resides, or 2) in the city or county where the birth parents executed consent occurred (Section 63.2-1201) and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel of record, if any (Section 63.2-1201).

Section 63.2-1201, Code of Virginia, Proceedings for the adoption of a minor child...shall be instituted only by petition to a circuit court in the county or city in which the petitioner resides, in the county or city in which the child-placing agency that placed the child is located, or in the county or city in which the birth parent executed a consent pursuant to §63.2-1233 ...If any procedural provisions of this chapter applies only to one **of the** adoptive parents, then the court may waive the application of the procedural provision for the spouse of the adoptive parent **to whom the provision applies**....A petition filed while the child is under 18 years of age shall not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption. Any final order of adoption entered pursuant to §63.2-1213 after a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall have the same effect as if the child was under 18 years of age at the time the order was entered by the circuit court provided the court has obtained the consent of the adoptee.

Section 63.2-1201.1.B, Code of Virginia, An individual previously married to a parent of a child by birth or adoption and who stood in loco parentis to that child during the marriage, and who could have adopted the child pursuant to 63.2-1241 during the marriage, may, with the consent of the prior spouse who is the parent of the child by birth or adoption, adopt the child, after the marriage has dissolved, annulled, or voided, pursuant to the provisions of this chapter that are applicable to step-parents.

1.1.2.2 The petition shall ask permission to adopt a minor child who is not legally the petitioner's by birth.

1.1.2.3 If the agency receives an order of reference in either of the following cases, the agency should contact the local social service agency in the locality of the petitioners' residence to request assistance with completion of the investigation.

The petitioner(s) is a legal resident of Virginia but is living outside the state; or

The petitioner(s) moves from the state after the petition is filed.

1.1.2.4 In some stepparent adoptions, the court has the option of dispensing with the investigation and entering a final order. If an order of reference is entered in these cases, the attorney is to be contacted to make sure he is aware the court may enter a final order without an investigation. If the order of reference is not rescinded, the agency is responsible for making the investigation and report. (See section 1.16 of this section).

1.1.2.5 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or it appears to be in the best interest of the child for another agency to make the investigation, the agency is to request that the court enter an amended order referring the investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.

1.1.3 Review of the Consents

The agency does not have any responsibility for obtaining written parental consent. The agency is responsible for reviewing the consent document

to determine if:

1.1.3.1 Valid consent has been obtained from:

The Birth Mother or adoptive mother,
and any man who is:

An Acknowledged Father

An Adjudicated Father

A Presumed Father

A Registered Putative Father (Section 63.2-
1202, *Code of Virginia*).

Consent is also obtained from:

The adoptee who is 14 years of age or older (Section 63.2-
1202.C).

1.1.3.2 Consent is not required from the birth parent if:

- 1) A birth father denies under oath and in writing the paternity of the child. The denial can not be withdrawn after 10 days. Once the child is 10 days old, any denial of paternity is final and constitutes a waiver of all rights. (Section 63.2-1202.E, *Code of Virginia*)

1.1.3.3 Consent has been properly executed.

- The parent, who is the spouse of the petitioner, must join in the petition to indicate consent (section 63.2-1201); and
- The other parent must give consent in writing and under oath. The consent must identify the child and the petitioner(s) by name and must be signed, dated, and notarized (section 63.2-1202).
- The consent must be notarized.
(Section 63.2-1202.a).

1.1.4 Inquiries made during the investigation

The Code (Section 63.2-1208.C, 63.2-1242) requires the following items to be addressed:

- 1.1.4.1 Whether the petitioner(s) is financially able, morally suitable, in satisfactory physical and mental health, and a proper person(s) to care for and train the child
- A child protective service checks, criminal records checks, and references are not needed.
- 1.1.4.2 What the physical and mental condition of the child is, medical reports are not needed;
- 1.1.4.3 Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what their attitude is toward the proposed adoption;
- 1.1.4.4 Whether the parents have abandoned the child or are morally unfit to have custody over him;
- 1.1.4.5 The circumstances under which the child came to live and is in the physical custody the petitioner(s);
- 1.1.4.6 Whether the child is a suitable child for adoption by the petitioner(s); and
- 1.1.4.7 What fees have been paid by the petitioners or in their behalf to persons or agencies which have assisted them in obtaining the child.
- 1.1.4.8 The report must include the physical and mental history of birth parents, if it is known.
- 1.1.4.9 A statement in the report of the efforts made to encourage birth parents to provide information related to all reasonably ascertainable background, medical, and psychological records of the child to the prospective adoptive parent(s). A list of reports given to the prospective adoptive parents shall also be submitted with the Report of Investigation.

1.1.5 The Investigation includes:

- 1.1.5.1 Interviews with:

adoptive parents,

child, if of the age to participate,

Parents to include the birth mother, the presumed father, acknowledged father, adjudicated father, and/or putative father whose identity is known to determine their attitude, physical and mental health history, and background information.

- If an interview is not possible, contact must be made by mail or telephone, or through another agency.
- When a letter is sent to the parent(s) of a child born out of wedlock, it must be sent by certified mail.
- The letter must be delivered to the addressee only and a return receipt requested.

professional persons concerned with case;

- 1.1.5.2 Home visits to describe for the court the physical environment in which the child will live, and to observe interactions between the parent and child in a familiar environment.
- 1.1.5.3 Information on the adoptive parents' income in order to determine the fee assessed.
- 1.1.5.4 If unable to complete the investigation,
 - The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days. (Section 63.2-1208.B, *Code of Virginia*)
 - A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or

inability to complete the investigation and the period of time needed to complete the investigation.

- If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.
- If the petitioner(s) moves from Virginia before completion of the investigation, the agency can request the assistance of an out-of-state agency in completing the investigation.

1.1.6 Prepare the Report of Investigation

The format of the report must be that prescribed by the Adoptions Unit. The Report of Investigation Format and Checklist in the Forms section outlines information to be included in the report.

For purposes of confidentiality, the report must not contain identifying information on the legal/birth parent who is not a party to the petition. The report must contain a recommendation as to the action to be taken by the court.

1.1.6.1 Prepare four copies of the report

Send original to the court with certificate of service showing copy of report was sent to the adoptions unit (Section 63.2-1208). The certificate of service form is in the forms section.

Send one copy to the Adoptions Unit with completed commissioner's confidential report (see the forms section for the CCR).

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

Keep a copy in agency's file until final disposition.

- 1.1.6.2 If a letter of opposition to the adoption is received from the legal/birth parent, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.
- 1.1.6.3 The agency must submit any additional information requested by the Adoptions Unit.
- 1.1.6.4 In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by the local department of social services which completed the investigation and court report to provide proof of payment of the fee.

1.1.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for abeyance. The format for a Supplementary Report is in the forms section.

1.1.8 What must be done following final disposition

- 1.1.8.1 Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A final order is not subject to attack for any reason after six months from the date it is entered and is final for all purposes (section 63.2-1216).
- 1.1.8.2 Acknowledgment and disposition of case material

The agency must review and acknowledge receipt of the final order of adoption or any other order of final

disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment form is in the Forms section.

The agency must purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the Adoptions Unit for preservation (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to Adoption Reports for Preservation in a Non-agency Adoption).

1.1.9 Closing the case

The case should be closed when the final order of adoption is received.

1.2 Responsibilities of the attorney

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- 1.2.1 Files the petition, which must be signed by the petitioner and counsel of record (Section 63.2-1201),
- 1.2.2 Obtains required consents,
- 1.2.3 Prepares appropriate orders,
- 1.2.4 Informs the petitioners of the legal requirements,
- 1.2.5 Assists the agency in obtaining necessary verifications, and
- 1.2.6 Assists the petitioner(s) in obtaining a new birth certificate for the child.

1.3 Responsibilities of the Commissioner

The Adoptions Unit carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 1.3.1 establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family; and
- 1.3.2 monitoring adoption cases and submitting reports to courts when necessary.

1.4 Responsibilities of the circuit court

- 1.4.1 If the petition is executed under oath and in writing, the court may, without an investigation, enter a final order in accordance with code section 63.2-1213 when:
 - 1.4.1.1 A natural parent, whose spouse has died, marries again and the surviving parent and new spouse petition for adoption (section 63.2-1241a); or

- 1.4.1.2 A legitimate child of a divorced parent is being adopted by a stepparent and the other natural parent has consented to the adoption (section 63.2-1241b); or
- 1.4.1.3 A mother of an illegitimate infant marries, and her husband desires to adopt, provided (section 63.2-1241c):
- The birth father consents, or
 - The mother executes an affidavit that the identity of the father is not known or not reasonably ascertainable; or
 - The putative father denies paternity under oath and in writing, according to §63.2-1202, *Code of Virginia*; or
 - The child is 14 years of age and has lived in the petitioners' home for at least five years; or
 - The alleged father is deceased; or
 - The non-custodial birth parent executes a denial of paternity under oath and in writing; or
 - The non-custodial birthparent:
 - Is not an acknowledged father and
 - Is not adjudicated father; and
 - Is not a presumed father; and
 - Is a putative father who has not registered with the Virginia Putative Father Registry and if his identity is reasonably ascertainable, he has been provided notice to register with the Virginia Putative Father Registry and has failed to timely register.
- 1.4.1.4 A single person who adopted a child marries and files a petition with his/her spouse (section 63.2-1241.D)
- 1.4.2 The investigation and report shall be undertaken only if the court in its discretion determines that there should be an investigation before a final order of adoption is entered (section 63.2-1242). If the court makes such a determination, it shall refer the matter to the local director of social

services.

1.4.2.1 The clerk of the circuit court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the director of the department of social services and to the Adoption Unit. The petition must be signed by the petitioner and counsel of record, if any (section 63.2-1201)

1.4.2.2 The court will expeditiously consider the merits of the petition when the report is received (Section 63.2-1208a, 63.2-1242.2).

The court may take any action it finds appropriate if the report is not submitted in the specified time (Section 63.2-1242, 63.2-1208B). The court may:

enter a final order,

deny petition,

dismiss petition,

continue proceeding,

schedule a hearing, or

enter an interlocutory order (in stepparent adoptions, the interlocutory order is almost always waived by the court in accordance with Code Section 63.2-1210.1).

1.4.2.3 The court may dispense with parental consent if the court finds that consent is withheld contrary to the best interest of the child or is unobtainable (section 63.2-1203a) provided that:

Twenty-one (21) days have elapsed since personal notice of the petition was served on the person(s) whose consent is required (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received); or

If personal service is unobtainable, 10 days have elapsed after the completion of the execution of an order of publication against the person(s) whose consent is required; or

The judge certifies on the record that the identity of the person whose consent is required is unobtainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable is sufficient evidence provided that there is no evidence before the court to refute the affidavit.

1.4.2.4 The court does not require consent when:

- The birth father is convicted of

rape;

carnal knowledge of a child between the ages of thirteen and fifteen; or

adultery or fornication with his daughter or granddaughter, or his mother;

And the child was conceived from this action (Section 18.2-366b, *Code of Virginia*).

- A parent is deceased (Section 63.2-1203b, *Code of Virginia*), or
- The parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of one parent have been terminated by the divorce decree or another order of the court (Section 63.2-1202C.2, *Code of Virginia*); or
- A birth father denies under oath and in writing the paternity of the child. The denial can not be withdrawn after 10 days. Once the child is 10 days old, any denial of paternity is final and constitutes a waiver of all rights, or

- The parent has not visited or contacted the child for a period of six (6) months without any justification (Section 63.2-1202.H, *Code of Virginia*), or
- **A child born outside wedlock.** (Section 63.2-1202.C.2, *Code of Virginia*)
- The father's identity is unknown; or
- The putative father consents to the termination of all of his parental rights before the child is born (Section 63.2-1202.i, *Code of Virginia*).
- The father is given notice of the adoption proceedings by certified or registered mail at his last known address and fails to object within 15 days of the date the notice was mailed (Section 63.2-1233.1.C, *Code of Virginia*) or
- Once proper notice has been given and the nonconsenting parent fails to appear in court either in person or by counsel the nonconsenting parent waives any objection and right to consent to the adoption (Section 63.2-1202.J *Code of Virginia*), or
- **A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (Section 63.2-1203.3 *Code of Virginia*).**

- 1.4.2.5 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.
- 1.4.2.6 The clerk of the court sends to the agency and to the Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Adoption Unit for preservation.
- 1.4.2.7 When services have been provided by a local department of social services, the court shall assess a fee, in accordance

with regulations and fee schedules established by the State Board of Social Services. The court shall not enter a final order of adoption until proof of payment of fees has been received (code section 63.2-1248).

- 1.4.2.8 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.
- 1.4.2.9 After the entry of a final order, the clerk of court sends to the state department of health, bureau of vital records and health statistics a completed report of adoption, VS-21, and a completed application for a certified copy of a birth record, VS-6, with a check for the required fee (Section 32.1-262, Code of Virginia).

2. PARENTAL PLACEMENT ADOPTIONS

Parental placements for the purpose of adoption are governed by the provisions in Code Section 63.2-1230. In a parental placement, the child's parent or legal guardian places the child with a family of his/her choice for the purpose of adoption. In a parental placement, the agency completes a home study report and a petition is filed in the juvenile and domestic relations court for execution of consent and awarding of custody to the prospective adoptive parents. The juvenile and domestic relations court reviews the home study report and collateral material to determine whether the requirements of law have been met, accepts parental consent, and transfers custody to the adoptive parents. An adoption petition may then be filed in circuit court.

[Section 63.2-1230](#), *Code of Virginia*, The birth parent, legal guardian or **adoptive parent** of a child may place his child for adoption directly with the adoptive parents of his choice. Consent to the proposed adoption shall be executed upon compliance with the provision of this chapter before a juvenile and domestic relations district court or, if the birth parent or legal guardian does not reside in Virginia, before a court having jurisdiction over child custody matters in the jurisdiction where the birth parent or legal guardian resides when requested by a juvenile and domestic relations district court of this Commonwealth...

The overall steps in a parental placement adoption are as follows:

- (i) the agency receives a request for a home study;
- (ii) a home study is completed;
- (iii) a report of the home study is submitted to the juvenile and domestic relations district court;
- (iv) adoptive parents file a petition for execution of consent in juvenile and domestic relations district court;
- (v) court accepts consent and awards custody to the prospective adoptive parents;
- (vi) a petition for adoption is filed in the circuit court;
- (vii) the circuit court enters an Interlocutory Order of Adoption if everything has been done in compliance with law; and
- (viii) after a six month supervisory period, the circuit court enters a final order of adoption.

In a parental placement the birth parents may designate either the agency adoption provisions (Chapter C) or the parental placement adoption provisions (Chapter D). When the agency is requested to and accepts custody of a child for the purpose of placing said child with adoptive parents recommended by the birth parents or a person other than a licensed child-placing agency or local board, the birth parents shall select

either the parental placement adoption provisions or the agency adoption provisions for the adoption of such child (Section 63.2-1226, *Code of Virginia*). The agency adoption provisions are found in Chapter C of Volume VII, Section III Policy Manual.

Section 63.2-1226, *Code of Virginia*, When a licensed child-placing agency or local board is requested to accept custody of a child for the purpose of placing the child with adoptive parent(s) recommended by the birth parent(s).... Either the parental placement adoption provisions or the agency adoption provisions of this chapter shall apply to such placement at the election of the birth parent(s).

2.1 Responsibilities of the agency in a parental placement adoption before the adoption petition is filed in circuit court.

In a parental placement, in order for the juvenile and domestic relations court to make the required determinations before accepting consent, the agency shall:

2.1.1 Open the case

In most parental placements, the agency will be asked to complete a home study before the petition to execute consent is filed in the juvenile and domestic relations court. The request will come from either the birth parent or adoptive parent. In some cases, the agency will receive an Order For a Home Study directly from the court.

When the request for services comes from either the birth parent or the prospective adoptive parents, a service application is completed. In cases where the court order initiates the request for services, the court order serves as the service application.

2.1.1.1 Set up case records

A parental placement case record should contain the following documents:

- Service application (or court order);
- all court orders,
- home study, including all certifications,

- Home Study Report,
- Report of Investigation, if applicable,
- Report of Visitation,
- all correspondence, and
- narrative

2.1.2 Conduct a home study of the prospective adoptive home.

The manner in which a family receives a child for adoption shall have no bearing on how the family is to be assessed for purposes of adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, by the birth parents, or by a legal guardian.

The difference between completing a home study for a child placed by an agency and for a child placed by birth parents is in the role of the agency, not in the assessment of the adoptive family.

In an agency placement, the agency approves or denies adoptive applicants based on agency standards. In a parental placement, the agency makes a recommendation to the court regarding the suitability of the family to adopt. The recommendation is based on an assessment of whether the placement is contrary to the best interest of the child. The assessment is based on information gathered during the home study process. (See the Forms section for the format for the home study report).

The adoptive home study is a process that involves the adoptive applicants in determining with the agency whether they can meet the needs of an adopted child.

The home study should be carried out so that it brings about increased understanding of the adoption process and begins to prepare the applicants for adoption.

In a parental placement, it is important for the home study to be completed as early in the process as possible. Early completion of the home study provides safeguards for the child and facilitates the adoption process.

In a parental placement, the agency is not responsible for approving or denying the family. State law gives birth parents the right to place their child with a family of their choice. The agency's responsibility is to assess the family and report its findings to the Juvenile Court. The birth family and the Juvenile Court will make the determination as to whether the family is a suitable family for the child.

After completing the home study, the agency should inform the birth parents of their recommendation to the court. When the agency's recommendation is that the placement appears to be contrary to the welfare of the child, the birth parents may want their attorney present for the court hearing.

A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child. See Section 5 - The Adoptive Home Study for adoptive home standards and assessment criteria.

2.1.3 Requirements for home study.

In addition to the information gathered during the home study assessment, in the course of the home study the agency must include the following:

- 2.1.3.1 The agency worker must meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. If the birth parents and prospective adoptive parents agree, the meeting may occur simultaneously (Section 63.2-1231).

The purpose of this simultaneous meeting is to facilitate the exchange by the birth parent(s) and adoptive parents of identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child.

The exchange of names and addresses may be waived if both parties agree in writing to waive the disclosure of this information.

If the social worker is unable to complete the simultaneous meeting, it must be documented in the home study the reasons why they were not able to meet this requirement. Upon receipt and review of the home study the court may waive the requirement to meet simultaneously where the opportunity for compliance is not reasonably available under the circumstances in accordance with

the *Code of Virginia*, Section 63.2-1233.4.

See the Forms section for a suggested format for the sharing of identifying information.

- 2.1.3.2 The birth parent(s) must be informed of alternatives to adoption, adoption procedures and opportunities for placement with other adoptive families (Section 63.2-1232.1).

It must be determined that the birth parents' consent is informed and uncoerced (Section 63.2-1232.1)

Anyone may provide the required information to birth parents including doctors, attorneys, ministers, and friends.

The agency's responsibility is to determine whether this information has been provided, and if not, to provide it.

When birth parents indicate that they desire additional counseling to help them work through feelings and issues related to placing the child for adoption, the role of the agency is to assist the birth parent(s) in obtaining this counseling. The agency may provide the counseling directly or refer the birth parent(s) to another community agency.

- 2.1.3.3 The prospective adoptive family must be informed of alternatives to adoption; adoption procedures, including the need to address the parental rights of the birth parents; the procedures for terminating parental rights; the opportunities for adoption of other children (Section 63.2-1232.2, *Code of Virginia*).

It must be determined that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption (Section 63.2-1232.2).

The family can be informed of this information by the attorney or the agency. The agency must determine whether the family has received this information and, if not, provide it during the course of the home study.

The agency must include in the Report of Home Study that this determination has been made. (See the Forms section for a Certification Form that can be used for this purpose).

- 2.1.4 The agency must determine that there has been no exchange of property, advertisement, or solicitation except that allowed in (Sections 63.2-1218, & 63.2-1232.5). Fees that are allowable include:

reasonable and customary services provided by a licensed or duly authorized child-placing agency and fees, based on prevailing community rates, paid for such services;

payment or reimbursement for medical expenses and insurance premiums which are directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, for mental health counseling received by the birth mother or birth father related to the adoption, and for expenses incurred for medical care for the child;

payment or reimbursement for reasonable and necessary expenses for food, clothing, and shelter when, upon the written advise of her physician, the birth mother is unable to work or otherwise support herself due to medical reasons or complications associated with the pregnancy or birth of the child;

payment or reimbursement for reasonable expenses incurred incident to any court appearance including, but not limited to, transportation, food, and lodging;

usual and customary fees, based on prevailing community rates, for legal services in adoption proceedings; and

payment or reimbursement of reasonable expenses incurred by adoptive parents for transportation in connection with any of the services specified in Chapter 12, Article 3 or inter-country placements and as necessary for compliance with state and federal law in such placements.

- 2.1.5 The agency must determine that all parties understand that no binding contract exists regarding placement or adoption of the child (section 63.2-1232.4).

Birth parents may change their minds about adoption, even after executing consent. Consent does not terminate parental rights and may be revoked under certain conditions until entry of the final order of adoption.

The adoptive parents may also decide not to pursue the adoption. The agency's responsibility is to ensure that both parties understand that the only guarantee of adoption in a parental placement is the entry of the final order of adoption.

2.1.6 Provide the juvenile court with a report of the home study.

The report to court is a separate document from the home study; however, information in the home study should be included in the court report. Two copies of the court report must be sent with the original for the court, at its discretion, to provide to the birth and adoptive parents. The agency worker may give prospective adoptive parent(s) a copy of the court report.

2.1.6.1 Section 63.2-1208.D, requires the agency to furnish the attorney a copy of the report made to the court

2.1.6.2 Section 63.2-1239 requires the attorney to return the report to the clerk of court without it having been duplicated. The agency should be sure the attorney is aware of these provisions.

2.1.7 Format for the report of home study in the format prescribed by the Adoptions Unit.

See the Forms section for the format for the Report of Home Study. The report is to include the following:

2.1.7.1 information regarding whether the prospective adoptive parents are financially able, morally suitable, and in satisfactory physical and mental health to enable them to care for the child;

2.1.7.2 the physical and mental condition of the child;

2.1.7.3 information about both birth parents, including:

names and addresses,

why the parents desire to be relieved of the responsibility for the child and what their attitude is toward the proposed adoption;

physical description, ages, races, marital status, education, employment, and, if known, physical and mental health.

- 2.1.7.4 The circumstances under which the child came to live, or will be living, in the home of the prospective adoptive family, and if applicable, a statement as to whether the requirements of law related to the interstate compact on the placement of children have been met;
- 2.1.7.5 All financial agreements or exchange of property among the parties, including fees paid for services related to the placement and adoption of the child, must be reported to the court.
- The agency includes this information in the report of home study that is submitted to the juvenile court.
 - The agency is also responsible for reporting suspected violations to the Commissioner.
- 2.1.7.6 A statement as to whether the requirements of law related to execution of consent have been met. These requirements include:
- The child must be at least 3 days old before consent can be executed. (Section 63.2-1233, *Code of Virginia*)
 - When there is an identified child, the agency must verify the child's birth (if a birth certificate is not available due to the child having been recently born, verification may be made through a hospital certificate. The agency should make an attempt to get a certified copy of the birth certificate with the birth registration number as soon as possible.
 - **If the identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not reasonably ascertainable, verification of**

**compliance with the Virginia Putative
Father Registry must be provided to the
court (Section 63.2-1233.1.b).**

- The birth registration number should be listed on the Report of Visitation and the Commissioner's Confidential Report form.
- The agency must include birth information in the Report of Home Study.

2.1.7.7. A statement in the report of the efforts made to encourage birth parents to provide information related to all reasonably ascertainable background, medical, and psychological records of the child to the prospective adoptive parent(s). A list of reports given to the prospective adoptive parents shall also be submitted with the Report of Investigation.

The birth parent(s) must be aware of their opportunity to be represented by legal counsel, and consent of the birth parents must be informed and uncoerced.

This information is reported on the certification form (see forms).

- The adoptive family must have been provided counseling with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of the birth parent and the procedures for terminating such rights, and opportunities for adoption of other children, and their decision to adopt must be informed and uncoerced
- This information is reported on the certification form (see the forms section).
- The birth parent(s) and adoptive parents must exchange identifying information including but not limited to full names, addresses, physical, mental, social, and psychological information.
- The agency social worker must report that the worker has met at least once with the birth parent(s) and prospective adoptive parents simultaneously. The certification form is used to report this to the court (see the forms section).

2.1.7.8 The original and two copies of the report of home study are provided to the court and the court, at its discretion, provides the birth and adoptive parents with copies of the home study report.

The agency submits the certification form (see the forms section) to the court with the report of home study.

- 2.1.8 Upon entry of the final order of adoption, a copy of the report of home study and all other information in the adoption record shall be sent to the Adoptions Unit at the Virginia Department of Social Services for preservation and release in accordance with the provisions of Code Section 63.2-1246.
- 2.1.9 If the agency suspects there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, the agency shall report the findings to the commissioner for investigation (if the agency has questions as to whether a violation of code section 63.2-1218 has occurred, it is recommended that the agency ask the prospective adoptive family to obtain an itemized account of services rendered for the fees charged). The following exceptions apply:
- 2.1.9.1 reasonable and customary services provided by a licensed or duly authorized child-placing agency and fees, based on prevailing community rates, paid for such services;
 - 2.1.9.2 payment or reimbursement for medical expenses and insurance premiums which are directly related to the birth mother's pregnancy and hospitalization for the birth of the child who is the subject of the adoption proceedings, for mental health counseling received by the birth mother or birth father related to the adoption, and for expenses incurred for medical care for the child;
 - 2.1.9.3 payment or reimbursement for reasonable and necessary expenses for food, clothing, and shelter when, upon the written advice of her physician, the birth mother is unable to work or otherwise support herself due to medical reasons or complications associated with the pregnancy or birth of the child.
 - 2.1.9.4 Payment or reimbursement for reasonable expenses incurred incident to any court appearance pursuant to section 63.2-1218 including, but not limited to, transportation food and lodging.
 - 2.1.9.5 Usual and customary fees, based on prevailing community rates, for legal services in adoption proceedings; and
 - 2.1.9.6 Payment or reimbursement of reasonable expenses incurred for transportation in connection with any of the services specified in section 63.2-1218 or inter-country placements and as necessary for compliance with state and federal law in such placements.

- 2.1.10 If the agency becomes aware that any person has knowingly and intentionally provided false information in writing and under oath, which is material to an adoptive placement, the agency shall report this to the Commissioner (Section 63.2-1217).

NOTE: The above responsibilities all take place at the juvenile court level. Once the adoption petition is filed in the circuit court, the agency has additional responsibilities.

2.2 Responsibilities of the attorney in parental placement adoption in juvenile court.

2.2.1 File petition for consent hearing (Section 16.1-241.U).

2.2.2 Obtain consent from (Section 63.2-1202):

2.2.2.1 The mother;

2.2.2.2 The father who may be:
An acknowledged;
An adjudicated;
A presumed; and/or
A registered putative father.

If a legal father denies that he is the father of a child born to his wife or ex-wife and the child was born within 300 days or 10 months of the marriage ending, the agency must make all effort to identify the father by gathering more information from the wife or ex-wife, verifying paternity through testing or checking the putative father registry.

2.2.2.3 The child who is 14 years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent (Section 63.2-1202.C.4).

2.2.2.4 If consent cannot be obtained from at least one parent, the court shall deny the petition and determine custody of the child pursuant to code section 16.1-278.2 unless all parents are deceased (Section 63.2-1233.3).

2.2.2.5 Consent is not required when:

2.2.2.5.1 A birth father denies under oath and in writing the paternity of the child. A denial of paternity may be withdrawn no more than 10 days after it is executed. Once a child is 10 days old, any executed denial of

paternity is final and constitutes a waiver of all rights with respect to adoption of the child and cannot be withdrawn. (Section 63.2-1202.e of the *Code of Virginia*)

- 2.2.2.5.2 The birth father is convicted of a rape, carnal knowledge of a child between 13-15, or adultery or fornication with a daughter, granddaughter, son, grandson, father or mother.
- 2.2.2.5.3 A person's parental rights have been terminated by a court of competent (legally qualified) jurisdiction.
- 2.2.2.5.4 If birth parent(s) without cause, has neither visited nor contacted the child for a period of six months prior to the petition for adoption.

- 2.2.2.5.4.1 The adoptive parent needs to show evidence that the birth parent(s) has not visited or contacted the child for a period of six months.

- 2.2.2.5.4.2 A birth parent is still required to receive noticed and be heard on the allegation of abandonment.

- 2.2.2.5.4.3 Failure of the nonconsenting parent to appear at any scheduled hearing constitutes a waiver of such objection.

2.2.2.6 If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent (Section 63.2-1233.5). **A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (Section 63.2-1203.3 Code of Virginia).**

- When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by the divorce decree or another order of a court (Code Section 63.2-1202.C.1) When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not

required if: (Code Section 63.2-1202.C.2).

If the putative father did not register with the Virginia Putative Father Registry his consent is not required(Section 63.2-1233.1.b). If the identity of the birth father is reasonably ascertainable, but the whereabouts or the birth father are not reasonably ascertainable, verification of compliance with the Virginia Putative Father Registry must be provided to the court (Section 63.2-1233.1.b);

- 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 fails to object to the proceeding with fifteen days of the mailing of the notice (Section 63.2-1233.1c); or
- The putative birth father named by the birth mother denies under oath and in writing paternity of the child (Section 63.2-1202.3);

2.2.2.7 When the consent of one parent has been obtained, the consent of the other parent(s) may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable (section 63.2-1203.a):

2.2.2.8 The circuit court may grant the petition without consent if:

Fifteen days after personal service of notice of the petition for adoption. Personal notice is by certified or registered mail. There should be a returned postal receipt signed by the parent to indicate that notice was received and this notice is kept in the record (Section 63.2-1203.A.1, *Code of Virginia*); or

If personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party or parties whose consent is required; or (Section

63.2-1203.2, *Code of Virginia*)

If a birth parent is deceased, upon the filing of a death certificate for a deceased parent with the court; (Section 63.2-1203.3) or

If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable. (Section 63.2-1203.2, *Code of Virginia*)

- 2.2.2.9 No consent shall be required from the birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the adoption proceedings (section 63.2-1233.6).

- 2.3 Responsibilities of the juvenile court in a parental placement before the adoption petition is filed in circuit court.
- 2.3.1 Advance the consent proceedings on the docket to be heard within 10 days of filing of the petition, or as soon thereafter as practicable (section 63.2-1230).
- 2.3.2 Consent must be executed in:
- 2.3.2.1 the juvenile and domestic relations court in the city or county where the child to be adopted was born; in the city or county where the birth parents reside; or in the city or county where the prospective adoptive parents reside, (section 16.1-243.1c); or
- 2.3.2.2 if the birth parent does not reside in Virginia, before a court having jurisdiction over child custody matters in the jurisdiction where the birth parent resides when requested by a court of Virginia (Section 63.2-1230).
- 2.3.3 Consent must be executed by the birth parent(s) while before the juvenile and domestic relations court in person and in the presence of the prospective adoptive parents (section 63.2-1233).
- 2.3.4 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, the 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 (section 63.2-1233.4).
- 2.3.4.1 Transferring custody becomes effective immediately.
- 2.3.4.2 Prior to the entry of such an order, the court may appoint legal counsel for the birth parents and must find by clear and convincing evidence that the:
- Birth parents were given proper notice of the hearing to execute consent and of the hearing to proceed without their consent,
- Birth parents failed to show good cause for their failure to appear at such hearings, and

The consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable.

2.3.5 In determining whether the valid consent of any person whose consent is required is withheld contrary to the best interests of the child, or is unobtainable, the court shall consider whether granting the petition for adoption would be in the best interest of the child. In determining the best interest, the court must consider all relevant factors, including:
(Section 63.2-1205)

- 2.3.5.1 the birth parent(s) efforts to obtain or maintain legal and physical custody of the child;
- 2.3.5.2 whether the birth parent(s) are currently willing and able to assume full custody of the child;
- 2.3.5.3 whether the birth parent(s) efforts to assert parental rights were thwarted by other people;
- 2.3.5.4 the birth parent(s) ability to care for the child;
- 2.3.5.5 the age of the child;
- 2.3.5.6 the quality of any previous relationship between the birth parent(s) and the child and between the birth parent(s) and any other minor children;
- 2.3.5.7 the duration and suitability of the child's present custodial environment; and
- 2.3.5.8 the effect of a change of physical custody on the child.

2.3.6 Before accepting a consent that is executed in court, the juvenile and domestic relations court must determine that:

- 2.3.6.1 The child is at least 3 days old; (Section 63.2-1233)
- 2.3.6.2 The birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families, and that the birth parents consent is informed and uncoerced. (Section 63.2-1232.A.13)

(This information is provided to the court by the agency on the certification form in the forms section);

- 2.3.6.3 A licensed or duly authorized child-placing agency has counseled the prospective adoptive parents with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of the birth parents, the procedures for terminating such rights, and opportunities for adoption of other children; that the prospective adoptive parents' decision is informed and uncoerced; and that they intend to file an adoption petition and proceed toward a final order of adoption. (Section 63.2-1232.A.2)

(This information is provided to the court by the agency on the certification form in the forms section);

- 2.3.6.4 the birth parent(s) and adoptive parents have exchanged identifying information including but not limited to full names, addresses, physical, mental, social and psychological information and any other information necessary to promote the welfare of the child, unless both parties agree in writing to waive the disclosure of full names and addresses. (Section 63.2-1232.A.3)

(This information is provided to the court by the agency on the certification form in the forms section)

- 2.3.6.5 Any financial agreement or exchange of property among the parties and any fees charged or paid for services related to the placement or adoption of the child have been disclosed to the court and that all parties understand that no binding contract regarding placement or adoption of the child exists; (Section 63.2-1232.A.5)

- 2.3.6.6 There has been no violation of law in connection with the placement (Section 63.2-1232.A.5);

- 2.3.6.7 A licensed or duly authorized child-placing agency has conducted a home study of the prospective adoptive home in accordance with the guidelines listed in forms section and that during the course of the home study. The worker has met at least once with the birth parent and prospective adoptive parents simultaneously. (Section 63.2-1232.A.6)

(This information is provided to the court by the agency on the certification form in the forms section).

- 2.3.6.8 The birth parents have been informed of their opportunity to be represented by legal counsel. (Section 63.2-1237.A.7)
 - 2.3.6.9 If any of the requirements in section 2.3.6.1 - 2.3.6.8 have not been met, the juvenile and domestic relations court shall refer the birth parent to a licensed or duly authorized child-placing agency for investigation and recommendation. (Section 63.2-1232.b)
 - 2.3.6.10 The court can waive the requirement of the simultaneous meeting where the opportunity for compliance is not reasonably available under the applicable circumstances (Section 63.2-1233.4, *Code of Virginia*).
- 2.3.7 Consent shall be revocable as follows (section 63.2-1234):
- 2.3.7.1 By either consenting birth parent for any reason for up to seven days from its execution, however the seven-day revocation period may be waived provided that the child is 10 days old and the consenting birth parent acknowledges having independent legal counsel regarding the effect of the waiver (Section 63.2-1234)

63.2-1234, Code of Virginia, provides consent shall be revocable as follows: By either consenting birth parent for any reasons for up to seven days from its execution; however, such seven-day revocation period may be waived in writing at the time of consent provided that the child is at least 10 days old and the consenting birth parent acknowledges having received independent legal counsel regarding the effect of such waiver. In the case of two consenting birth parents, the wavier by one consenting birth parent shall not affect the right of the second consenting birth parent to retain his seven-day revocation period.

Revocation must be in writing, signed by the revoking party or counsel of record for the revoking party, and filed with the clerk of the court in which the petition was filed during the business day of the court, within the following time period:

If the revocation period expires on a Saturday, Sunday, legal holiday or any day on which the clerk's office is closed, the

revocation period shall be extended to the next day that is not Saturday, Sunday, legal holiday or other day on which the clerk's office is closed.

Upon the filing of a valid revocation within the time period specified, the court must order that any consent given for the purpose of such placement is void and, if necessary, determine custody of the child as between the birth parents.

2.3.7.2 By any party prior to the final order of adoption (i) upon proof of fraud or duress or (ii) after placement of the child in an adoptive home, upon written mutual consent of the birth parents and prospective adoptive parents. (Section 63.2-1234.2)

2.3.8 After accepting consent, the juvenile and domestic relations court shall transfer custody to the prospective adoptive parents, to be responsible for the care of the child until such time as the court order is modified (Section 63.2-1233).

2.3.8.1 The juvenile and domestic relations court shall review such orders of appointment at least annually until such time as the final order of adoption is entered (Section 63.2-1233);

2.3.8.2 When a child is placed in an adoptive home by the birth parent and a court of competent jurisdiction has not entered an interlocutory order of adoption, the child shall not be removed from the physical custody of the adoptive parents, except (Section 63.2-1103):

— With the consent of the adoptive parents,

— Upon order of the juvenile and domestic relations district court or the circuit court of competent jurisdiction,

— Pursuant to 63.2-904, which removal shall be subject to review by the juvenile and domestic relations district court upon petition of the adoptive parents, or

— Upon order of the court which accepted consent when consent has been revoked as authorized by section 63.2-1204 or section 63.2-1223.

2.3.9 After the expiration of the appropriate revocation period:

(Section 63.2-1206)

- 2.3.9.1 When a birth parent or an alleged birth parent attempts to obtain or regain custody of or attempts to exercise parental rights to a child who has been placed for adoption, there shall be no parental presumption in favor of any party.
- 2.3.9.2 Upon the motion of any such birth parent or alleged birth parent, or upon the motion of any person or agency with whom the child has been placed, the court shall determine:
- whether the birth parent or alleged birth parent is a person whose consent to the adoption is required and;
- if so, whether, in the best interest of the child, the consent of the person whose consent is required is being withheld contrary to the best interest of the child or is unobtainable.
- 2.3.10 If the juvenile and domestic relations court suspects there has been an exchange of property, money, services, or any other thing of value in violation of law in the placement or adoption of the child, the court shall report the findings to the Commissioner for investigation (Section 63.2-1218).
- 2.3.11 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the state board of social services. The court shall not accept parental consent until proof of payment of fees has been received (Section 63.2-1248)
- 2.3.12 If the juvenile and domestic relations court determines that the placement will be contrary to the best interests of the child, the court shall inform the birth parents. If the birth parents choose neither to retain custody of the child nor to designate other prospective adoptive parents, or if the birth parents' whereabouts are not reasonably ascertainable, the court shall determine custody of the child (section 63.2-1235).

- 2.4 Responsibilities of the Commissioner in a parental placement adoption when reports of suspected violations of law in the placement and adoption of the child are received (Section 63.2-1218)
- 2.4.1 When reports of suspected violations of law in the placement and adoption of the child are received by the Commissioner, the Commissioner shall:
- 2.4.2 Investigate the suspected violation; and take appropriate action when the investigation reveals that:
- There may have been a violation of law; the Commissioner shall report his findings to the appropriate attorney for the Commonwealth;
- The violation occurred in the course of the practice of a profession or occupation licensed or regulated pursuant to title 54.1, the Commissioner shall also report his findings to the appropriate regulatory authority for investigation and appropriate disciplinary action (Section 63.2-1219); **or**
- The violation involves engaging in the activities of a child-placing agency without a license, the Commissioner may file suit with the court of record having chancery jurisdiction. (Section 63.2-1701).
- 2.4.3 The Commissioner is also authorized to investigate and may refer to the attorney for the Commonwealth any person who has knowingly and intentionally provided false information in writing and under oath, which is material to an adoptive placement (Section 63.2-1217).

- 2.5 Responsibilities of the circuit court in a parental placement adoption after the adoption petition is filed in circuit court.
- 2.5.1 The clerk of the court where the petition is filed sends a copy of the petition, the interlocutory order, and all exhibits to the local department of social services or licensed private child-placing agency, whichever agency completed the home study report required by code Section 63.2-1231. A copy is also sent to the Commissioner (Section 63.2-1209).
- 2.5.1.1 The petition must be signed by the petitioner and counsel of record, if any (Section 63.2-1237).
- 2.5.1.2 In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition shall be under oath (Section 63.2-1237).
- 2.5.2 The circuit court shall not accept a petition in a parental placement unless:
- 2.5.2.1 Copies of documents executing consent, transferring custody to the petitioners, and the home study report are filed with the petition (Section 63.2-1237); and
- 2.5.2.2 The circuit court has determined that the findings required by law have been made by the juvenile and domestic relations court (see pages 2.19-2.20).
- 2.5.3 When all legal requirements related to executing consent pursuant to Code Section 63.2-1232 have been met, the circuit court may dispense with the order of reference and enter an interlocutory order. The home study report that was submitted to the juvenile and domestic relations court and filed with the petition in the circuit court takes the place of the investigation required in other non-agency adoptions (Section 63.2-1238.b).
- 2.5.4 In those parental placements where an order of reference or an interlocutory order is entered, the circuit court shall expeditiously consider the merits of the petition upon receipt of the report. (Section 63.2-1208.B and section 63.2-1212a).

The court may take any action it finds appropriate if the report is not submitted in

the specified time. The court may:

- 2.5.4.1 enter a final order,
 - 2.5.4.2 enter an interlocutory order,
 - 2.5.4.3 deny petition,
 - 2.5.4.4 dismiss petition,
 - 2.5.4.5 continue proceeding, or
 - 2.5.4.6 schedule a hearing.
- 2.5.5 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court (Section 63.2-1214).
- 2.5.6 The clerk of the court sends a copy of any order entered to the agency and to the Commissioner (Section 63.2-1238.a).
- 2.5.7 Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Commissioner for preservation (Section 63.2-1246).
- 2.5.8 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the state board of social services. The court shall not enter a final order of adoption until proof of payment of fees has been received (Section 63.2-1248).
- 2.5.9 The court may not enter a final order of adoption without the information needed to complete a report of adoption (VS-21); unless the court determines this information is unavailable or unnecessary (Section 63.2-1213). The report of adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.
- 2.5.10 After the entry of a final order, the clerk of court sends to the state department of health, office of vital statistics a completed report of adoption, VS-21, and a completed application for a certified copy of a birth

record, VS-6, with a check for the required fee (Section 32.1-262).

2.5.11 After the expiration of six months from the date of entry of any final order of adoption from which no appeal has been taken to the court of appeals, the validity of the final order shall not be subject to attack in any proceedings, collateral or direct, for any reason, including but not limited to fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any person and the final order shall be final for all purposes (Section 63.2-1216).

2.6 Responsibilities of the attorney in a parental placement adoption after the adoption petition is filed in circuit court.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

2.6.1 files the petition which must be signed by the petitioner and counsel if any. The petition must state that the findings required by code section 63.2-1232 have been met and, which must be accompanied by the following documentation:

2.6.1.1 copies of documents executing consent,

2.6.1.2 a copy of the court order transferring custody of the child to the prospective adoptive parents, and

2.6.1.3 a copy of the home study report required by code section 63.2-1231.

2.6.2 Prepares appropriate orders,

2.6.3 informs the petitioners of the legal requirements,

2.6.4 assists the agency in obtaining necessary verifications, and

2.6.5 assists the petitioner(s) in obtaining a new birth certificate for the child.

2.7 Responsibilities of the Commissioner in a parental placement adoption after the adoption petition is filed in circuit court.

The adoptions unit is the office which carries out the duties of the Commissioner of social services in adoptions. These duties include:

- 2.7.1 establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family (Section 63.2-1246);
- 2.7.2 monitoring and evaluating adoption cases and submitting reports to courts (Sections 63.2-1238, 63.2-1212); and
- 2.7.3 arranging through the Interstate Compact on the Placement of Children (ICPC) for investigation and supervisory visits to be made when an out-of-state/country agency is involved (Section 63.2-1240).

2.8 Responsibilities of the agency in a parental placement after the adoption petition is filed in circuit court

2.8.1 Petition

2.8.1.1 Review the Petition

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

The petition must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) reside, or in which the county or city in which the birth parent executed a consent, or the county or city in which the child-placing agency that placed the child is located in and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel, if any.

The petition must be under oath whenever the petition seeks the entry of an order without referral for investigation (section 63.2-1201).

In a parental placement, the petition must state that the findings required by code section 63.2-1232. Have been met, and must be accompanied by the following documentation:

copies of documents executing consent,

a copy of the court order transferring custody of the child to the prospective adoptive parents, and

a copy of the home study report required by code Section 63.2-1231.

2.8.2 Order of reference

The order of reference is an order from the court directing an agency to make an investigation and report.

2.8.2.1 The court has the option of dispensing with the order of reference if all legal requirements relative to executing consent pursuant to Code Section 63.2-1232 have been met. The home study report that was submitted to the juvenile and domestic relations court and filed with the

petition in the circuit court takes the place of the investigation required by Code Section 63.2-1238.

- 2.8.2.2 When an order of reference is entered by the court, it must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The acknowledgment form is in the Forms section. (See Section 2.8.4 for conducting an investigation).

2.8.3 Consents

The agency does not have the responsibility for obtaining written parental consent. The agency is responsible for reviewing the consents to determine if consent has been obtained from:

- 2.8.3.1 The mother: **and**
- 2.8.3.2 The father which may be the:
An acknowledged,
An adjudicated,
A presumed, and/or
A registered putative father.

If a legal father denies that he is the father of a child born to his wife or ex-wife born within 300 days after the marriage is terminated, the agency must make efforts to identify the father by gathering more information from the mother, and verifying paternity through testing.

This presumption may be rebutted by sufficient evidence, satisfactory to the court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child. In this case, the consent of the mother's husband is not required.

- 2.8.3.3 The birth father,

The court may accept the written consent of the birth father who is not married to the birth mother of the child prior to or at the time of the child's birth provided that the required identifying information is filed in writing with the court.

The written consent shall be under oath and can be executed prior to the birth of the child or at the time of the child's birth, shall advise the birth father of his opportunity for legal counsel and shall be presented to the court for acceptance.

The consent may waive further notice of the adoption proceedings.

2.8.3.4 The child who is fourteen years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent.

2.8.3.5 The legal guardian, if appropriate.

In cases where a guardian is consenting to the adoption, the birth parent(s) do not need to appear in the juvenile and domestic relations court to execute consent.

Also, the simultaneous meeting between the agency social worker and the birth parent(s) and prospective adoptive parents is not required.

The requirements in 4.1.3, however, still need to be met. Even though the guardian is consenting, the court cannot accept consent until it finds that the birth and adoptive parents are making informed and uncoerced decisions.

2.8.3.6 If consent cannot be obtained from at least one parent, the court shall deny the petition and determine custody of the child pursuant to code section 16.1-278.2 unless all parents are deceased (Section 63.2-1233.3).

2.8.3.7 If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent (63.2-1233.5).

2.8.3.8 When the consent of one parent has been obtained, the consent of the other parent is not required:

2.8.3.9 if the parent is deceased. (Section 63.2-1202.C1)

When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by the divorce decree or another order of a court (Section 63.2-1202.c1);

When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not required if (Section 63.2-1202.C2);

The birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable (section 63.2-1233.1a);

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 fails to object to the proceeding with twenty-one days of the mailing of the notice (section 63.2-1233.1a); or

The putative birth father named by the birth mother denies under oath and in writing paternity of the child (section 63.2-1233.2).

2.8.3.9 When the consent of one parent has been obtained, the consent of the other parent(s) may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable (section 63.2-1203):

fifteen days after personal service of notice of the petition for adoption (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); or

if personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party or parties whose consent is required; or

if the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

- 2.8.3.10 No consent shall be required from the birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the adoption proceedings (section 63.2-1233.7).

2.8.4 Inquiries made during the investigation

The court may dispense with the investigation in a parental placement adoption if a home study report was done and the other requirements of chapter 12 article 6 were met. If the court does not dispense with the investigation, the questions specified in Section 63.2-1238 must be answered:

- 2.8.4.1 whether the petitioner(s) is financially able, morally suitable, in satisfactory physical and mental health, and a proper person(s) to care for and train the child;
- 2.8.4.2 what the physical and mental condition of the child is;
- 2.8.4.3 why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and what their attitude is toward the proposed adoption;
- 2.8.4.4 whether the parents have abandoned the child or are morally unfit to have custody over him;
- 2.8.4.5 the circumstances under which the child came to live, or will be living, in the home of the petitioners;
- 2.8.4.6 whether the child is a suitable child for adoption by the

petitioner;

2.8.4.7 what fees have been paid by the petitioners or in their behalf which have assisted them in obtaining the child; and

2.8.4.8 relevant physical and mental history of the birth parents, if known.

2.8.5 The investigation should include:

2.8.5.1 Interviews with:
adoptive parents,

child, if of the age to participate,

all biological/legal parents to determine their attitude, physical and mental health history, and background information,

If an interview is not possible, contact must be made by mail or telephone, or through another agency.

When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.

The letter must be delivered to the addressee only and a return receipt requested.

References - contact in person, by mail or telephone, and

Professional persons concerned with case;

2.8.5.2 home visit(s);

2.8.5.3 medical statements on the child and adoptive parents in non-relative cases; and

2.8.5.4 information on the adoptive parents' income in order to determine the fee assessed.

2.8.5.5 If unable to complete the investigation

The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.

A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests assistance from the new state of residence.

An Interstate Compact Form (100A) is completed and forwarded to the ICPC Office with a cover letter clearly stating the needed services and any collateral materials the out of state agency may need in completing their services.

Collateral materials would include social and medical information on the child and birth parents and the home study report on the adoptive family.

2.8.6 Preparation of the report of investigation required by code section 63.2-1238

2.8.6.1 Use the format for the home study report shown in the Forms section with the following changes:

Title the report "Report of Investigation";

Direct the report to the appropriate circuit court and the appropriate circuit court judge;

Put the Virginia adoption case number on the report and the court chancery number, if applicable;

Cite the appropriate code section under which the agency

was directed to do the report (Code Section 63.2-1208B, 63.2-1238);

Insert a section on consent after the section on separation from birth parents;

State who consented to the adoption and the manner in which consent was executed, and,

If applicable, state whose consent was not required or can be waived and why.

The report must include the physical and mental history of birth parents, if it is known.

Under the recommendation section, specify what order is recommended (Section 63.2-1208C) rather than simply stating whether or not the placement is a suitable placement for the child. For example, the agency should recommend entry of an Interlocutory Order.

If the provisions of Chapter 12, Article 3 were not complied with, indicate this and qualify the recommendation of the interlocutory by stating that such order is recommended "when or if the court is satisfied that consent has been executed in accordance with the law."

2.8.6.2 Prepare four copies of the report

Send original to the court with a Certificate of Service showing that a copy of report was sent to the Adoptions Unit. The Certificate of Service is in the Forms section.

Send one copy to the Adoptions Unit with completed Commissioner's Confidential Reports form shown in the Forms section.

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

Keep a copy in agency's file until final disposition.

2.8.6.3 If a letter of opposition to the adoption is received from the biological parent(s), the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

2.8.6.4 The agency must submit any additional information requested by the Adoptions Unit.

2.8.6.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee shall be provided by the local department of social services to the court prior to the entry of the final order (Section 63.2-1248).

2.8.7 A supplementary report

2.8.7.1 Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a recommendation for abeyance.

2.8.7.2 Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. See format for Supplementary Report on in the Forms section.

2.8.8 Receipt of interlocutory order

2.8.8.1 Review Interlocutory Order

In a parental placement adoption, if a home study report was done and the other requirements of chapter 12, article 3

were met, the circuit court may dispense with an investigation and proceed with the entry of an interlocutory order. The agency which completed the home study report required by section 63.2-1231 is responsible for providing supervision after the entry of the interlocutory order. The court may also order the entry of an interlocutory order after the investigation allowed by Section 63.2-1208C is completed.

The agency must review and acknowledge to the court receipt of the interlocutory order. See the Forms section for the acknowledgment form. A copy of the acknowledgment should be sent to the Adoptions Unit.

2.8.8.2 Supervisory Visits (Section 63.2-1212).

The agency must make at least three visits to the child within a six month period following the date the interlocutory order is entered.

The visits must be in the presence of the child.

One visit must be in the home of the petitioner(s) with the child and both petitioners present unless one of the petitioners is no longer residing in the home.

Visits must be scheduled so that at least 90 days elapse between the first and last visit.

If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to court must include the results of the contact.

If the petitioner(s) moves from Virginia prior to completion of the three visits, the agency must request assistance from an agency in the new state of residence in completing the visits.

— An interstate compact form (100a) is completed and forwarded to the interstate compact office in the foster care unit with a cover letter clearly stating the needed

services and any collateral materials the out of state agency may need in completing their services.

After the entry of the interlocutory order

After the entry of the interlocutory order the judge/court is the sender and no longer the agency (Section 63.2-1240, *Code of Virginia*).

[Section 63.2-1240](#), *Code of Virginia* provides, when a petitioner moves outside of the Commonwealth after the entry of an interlocutory order of adoption but prior to the entry of a final order of adoption and the child was not placed by a child-placing agency, the circuit court issuing the interlocutory order shall be deemed the sending agency for the purposes of the Interstate Compact on the Placement of Children....

Collateral material would include social and medical information on the child and birth parents and the home study report on the adoptive family. A copy of the Interlocutory Order is also included in the materials.

2.8.9 Report of visitation

2.8.9.1 The Report of Visitation is sent to the court within 15 days of the last visit. The agency sends a Certificate of Service with the Report.

2.8.9.2 The format for the Report of Visitation must be that prescribed by the Adoptions Unit. The Report of Visitation Format is in the Forms section.

2.8.9.3 Prepare four copies of the report.

Send original to the court with Certificate of Service shown in the Forms section.

Send one copy to the Adoptions Unit.

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not

send the petitioner(s) a copy of the report.

Keep one copy in agency's file until final action by the court.

2.8.9.4 The agency must submit any additional information requested by the Adoptions Unit.

2.8.9.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee shall be provided by the local department of social services to the court prior to the entry of the final order (Section 63.2-1248).

2.8.10 What must be done following final disposition

A final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A final order is not subject to attack after six months from the date it was entered and is final for all purposes (Section 63.2-1213).

2.8.10.1 Acknowledgment and disposition of case material

The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment is in the Forms section.

The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be forwarded to the Adoptions Unit for Preservation in a Non-agency Adoption").

- 2.8.10.2 The agency may wish to work out a procedure with their circuit court whereby the circuit court will notify the juvenile and domestic relations court when the final order of adoption is entered so that the juvenile and domestic relations court can remove the case from their docket.

2.9 Adoption Recommended by Birth Parents, Physicians, Virginia Licensed Attorneys, and Clergymen (Section 63.2-1226)

- 2.9.1 A designated adoption is an adoption where the birth parents or a person other than a licensed child placing agency or local board recommends the prospective adoptive placement of a child. Birth parents, physicians, licensed attorneys in Virginia and clergymen may recommend prospective adoptive parents when they are familiar with such parent or child.
- 2.9.2 The birth parent(s) requests the local board to accept custody of a child by signing a permanent entrustment agreement or by petitioning the court to be relieved of their rights. (See chapter C, 3.A.2 for how to voluntarily terminate rights).
- 2.9.3 When a licensed child-placing agency or local board is requested to accept custody of a child for the purpose of placing the child with adoptive parent(s) recommended by the birth parent(s) or a person other than a licensed child-placing agency or local board, either the parental placement provisions or the agency provisions shall apply to the adoption at the election of the birth parent(s). (Section 63.2-1226, *Code of Virginia*)

The agency shall:

- 2.9.3.1 1) provide information to the birth parents on the parental placement adoption procedures and the agency placement adoption procedures;
- 2.9.3.2 2) provide the birth parents with the opportunity to be counseled by a social worker; and
- 2.9.3.3 3) provide the birth parents with the opportunity to be represented by independent legal counsel.
- 2.9.3.4 4) the documentation for the method chosen to provide these services should be kept with the child's record.
- 2.9.4 The agency must determine if an approved home study has been completed on the prospective adoptive family.

- 2.9.4.1 If a home study has been completed, the agency should

review the home study and determine whether it is in the best interest of the child.

2.9.4.2 If a home study has not been completed, a home study must be initiated accordingly:

When the birth parents elects the agency placement adoption procedures, the agency initiates a home study of the prospective adoptive parents as outlined in Part 10 of Chapter C.

When the birth parents elects the non- agency placement adoption procedures, the agency initiates a home study of the prospective adoption parents as outlined in Part 5 of Chapter D.

If the prospective family lives out of state, the agency must use the Interstate Compact on the Placement of Children procedures to obtain an approved home study from the other state.

3. CLOSE RELATIVE ADOPTION

Section 63.2-1242.1 *Code of Virginia*. Close relative adoption. For the purpose of this chapter, a “close relative placement” shall be an adoption by the child’s grandparent, great-grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt, or adult great uncle or aunt.

Other family members may adopt using procedures outlined in agency placement or parental placement. If a petition is filed while the child is under 18 years of age and the child then turns 18 years of age the petition will not become invalid because the child reaches 18 years of age prior to the entry of a final order of adoption.

- 3.1 In a close relative placement the court may accept a written consent signed under oath by the birth parent(s) and notarized. The birth parent does not have to execute consent in court.
- 3.2 Close relative placement for a child who has been in the home less than three years:
 - 3.2.1 When a child who continuously resided in the home or has been in the continuous physical custody of a relative for less than three years:
 - 3.2.1.1 the adoption proceedings, including the court approval of the home study, shall begin in the juvenile and domestic relations district court pursuant to the parental placement adoption provisions according to Section 63.2-1242.2, *Code of Virginia*.
 - 3.2.2 Exceptions to the parental placement adoption proceedings are:
 - 3.2.2.1 The birth parent(s)’ consent does not have to be executed in juvenile and domestic relations district court in the presence of the prospective adoptive parents.
 - 3.2.2.2 The simultaneous meeting specified in the home study is not required.

- 3.2.2.3 No hearing is required in the juvenile domestic relation district court.
- 3.3 The close relative may file in circuit court after the juvenile and domestic relations district court:
 - 3.3.1 issues an order accepting the consents or otherwise deals with the birth parents rights, and
 - 3.3.2 appoints the close relative custodians of the child
- 3.4 What is needed to file in circuit court
 - 3.4.1 When the home study is filed with the circuit court an order of reference, investigation and report shall not be made unless the circuit court in its discretion requires an investigation and report to be made.
 - 3.4.2 The circuit court may omit the probationary period and the interlocutory order and enter a final order of adoption.
A home study is not required.
 - 3.4.3 If the circuit court determines the need for an additional investigation, it shall refer the matter to the licensed child-placing agency that completed the home study report. The licensed child-placing agency shall complete the report in the timeframe specified by the circuit court.
- 3.5 Close relative placement for a child who has been in the home three or more years:
 - 3.5.1 When a child who continuously resided in the home or has been in the continuous physical custody of a close relative for three years or more, the adoption proceeding of the parental placement provisions shall not apply and the adoption proceeding shall begin in the circuit court according to Section 63.2-1242.3, *Code of Virginia*.
- 3.6 Finalizing the adoption
 - 3.6.1 An order of reference, investigation and report shall not be made unless the circuit court in its discretion requires an investigation and report to be made.

- 3.6.2 The circuit court may omit the probationary period and the interlocutory order and enter a final order of adoption.
- 3.6.3 In the event that the circuit court determines that there is a need for an investigation, it shall be referred to the local director of the department of social services for an investigation and report.

4. RESPONSIBILITIES OF THE AGENCY.

When the order of reference and the interlocutory order are omitted and a final order of adoption is entered at the time the petition and consent are filed, the agency has no responsibility in this type of adoption.

However, the circuit court may order a thorough investigation of the matter and report to be performed by the applicable agency and submitted to the court within a timeframe the court determines (Section 63.2-1208). In this case, the agency has the following responsibilities:

The overall steps in this type of parental placement are as follows: (i) the agency receives a request for a home study; (ii) a home study is completed; (iii) a report of the home study is submitted to the juvenile and domestic relations district court; (iv) adoptive parents file a petition for a consent hearing in juvenile and domestic relations district court; (v) court accepts written consent and awards custody to the prospective adoptive parents; (vi) a petition for adoption is filed in the Circuit Court; and (vii) the circuit court omits the Order of Reference and Interlocutory Order of adoption if everything has been done in compliance with law and enters a final order of adoption.

4.1 Open the case

When the Order of Reference is received by the agency, the court order serves as the service application.

4.1.1 Set up case records

A parental placement case record, where the Circuit Court has entered an Order of Reference and/or an Interlocutory Order, should contain the following documents:

Court order (Service application);

all court orders;

Report of Investigation;

Report of Visitation;

all correspondence; and

narrative.

4.1.2 Review the Petition

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

4.1.2.1 The petition must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) reside and the case has been referred to the proper agency (section 63.2-1201)

4.1.2.2 the petition must be signed by the petitioner and by counsel, if any (section 63.2-1201).

4.1.3 Acknowledge the Order of Reference

The order of reference must be acknowledged to the court. A copy of the agency's acknowledgment is sent to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. See the Forms section for the Acknowledgment form.

4.1.4 Review Consents

The agency does not have the responsibility for obtaining written parental consent. The agency is responsible for reviewing the consent to determine if valid consent has been obtained from:

4.1.4.1 The mother;

4.1.4.2 The legal father;

The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.

If the mother is divorced, and the child was born within 300 days of the divorce decree, after the marriage is terminated by death, annulment, declaration of invalidity of the marriage, the man to whom the mother was married is the presumed father and his rights must be

terminated.

The presumption may be rebutted by sufficient evidence, satisfactory to the court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and her husband for a period of at least 300 days preceding the birth of the child. In this case, the consent of the mother's husband is not required (Section 63.2-1233.1d).

4.1.4.3 The birth father;

The court may accept the written consent of the birth father who is not married to the birth mother of the child prior to or at the time of the child's conception or birth provided that the required identifying information is filed in writing with the court.

The written consent must be executed after the birth of the child, shall advise the birth father of his opportunity for legal counsel and shall be presented to the court for acceptance.

The consent may waive further notice of the adoption proceedings.

4.1.4.4 The child who is fourteen years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent;

4.1.4.5 If consent cannot be obtained from at least one parent, the court shall deny the petition and determine custody of the child pursuant to Code Section 16.1-278.2 unless all parents are deceased (Section 63.2-1233.3).

4.1.4.6 If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent (Section 63.2-1233.5).

A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (Section 63.2-1203.3 Code of Virginia).

4.1.4.7

When the consent of one parent has been obtained, the consent of the other parent is not required:

if the parent is deceased; (Section 63.2-1202.c.1);

When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by the divorce decree or another order of a court (Section 63.2-1202.c.1);

When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not required if (Section 63.2-1202.c.2);

the birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable (Section 63.2-1233.1a);

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 fails to object to the proceeding with fifteen days of the mailing of the notice (Section 63.2-1233.2); or

the putative birth father named by the birth mother denies under oath and in writing paternity of the child (Section 63.2-1233.2);

4.1.4.8

When the consent of one parent has been obtained;

the consent of the other parent(s) may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable (section 63.2-1203):

fifteen days after personal service of notice of the petition for adoption (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); or

if personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party or parties whose consent is required; or

if the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

- 4.1.4.9 No consent shall be required from the birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the adoption proceedings (Section 63.2-1233.7).

4.1.5 Complete the Investigation

When the Circuit Court requires an Investigation, the following questions must be addressed (Section 63.2-1208, 63.2-1238).

- 4.1.5.1 Whether the petitioner(s) is financially able, morally suitable, in satisfactory physical and mental health, and a proper person(s) to care for and train the child;
- 4.1.5.2 What the physical and mental condition of the child is;
- 4.1.5.3 Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance

- of the child, and what their attitude is toward the proposed adoption;
- 4.1.5.4 Whether the parents have abandoned the child or are morally unfit to have custody over him;
- 4.1.5.5 The circumstances under which the child came to live and is living in the home of the petitioner(s);
- 4.1.5.6 Whether the child is a suitable child for adoption by the petitioner(s); and
- 4.1.5.7 What fees have been paid by the petitioners or in their behalf to persons or agencies which have assisted them in obtaining the child.
- 4.1.6 Ensure that the Investigation required by Code Section 63.2-1208 includes (See the Forms section for sample Report of Investigation):
- 4.1.6.1 Interviews with:
- adoptive parents,
- child, if of the age to participate,
- all natural/legal parents to determine their attitude, physical and mental health history, and background information,
- If an interview is not possible, contact must be made by mail or telephone, or through another agency.
- When a letter is sent to the parent(s) of a child born out-of-wedlock, it must be sent by certified mail.
- The letter must be delivered to the addressee only and a return receipt requested.
- references - contact in person, by mail or telephone,

and

professional persons concerned with case;

4.1.6.2 Home visits;

4.1.6.3 information on the adoptive parents' income in order to determine the fee assessed.

4.1.6.4 If unable to complete the investigation the court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.

4.1.6.5 A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

4.1.6.6 If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the help of an out-of-state/country agency through the Interstate Compact on the Placement of Children.

4.1.6.7 Prepare four copies of the report

Send original to the court with Certificate of Service showing copy of report was sent to the Adoption Reports Unit. The Certificate of Service is in the Forms section.

Send one copy to the Adoptions Unit with completed Commissioner's Confidential Reports (See the Forms section for sample CCR);

Send one copy to the attorney. If the petitioners do

not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

Keep a copy in agency's file until final disposition.

- 4.1.6.8 If a letter of opposition to the adoption is received from the birth parent(s), the letter is to be sent to the court with the report. A copy is sent to the attorney and to the Adoptions Unit with the copy of the report. A copy is kept in the agency's file.

The agency must submit any additional information requested by the Adoptions Unit. In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee shall be provided by the local department of social services to the court prior to the entry of the final order (Section 63.2-1248).

4.1.7 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as the result of a recommendation for abeyance.

Send original to the court, a copy to the Adoptions Unit and to the attorney. One copy is retained in the agency's file. (See the Forms section for sample Supplementary Report).

4.1.8 Review Interlocutory Order

In this type of case, the court may enter an interlocutory order after the

investigation is completed or omit the Interlocutory Order and enter a final order of adoption.

If an Interlocutory Order is entered, the agency must review and acknowledge to the court receipt of the interlocutory order. A copy of the acknowledgment should be sent to the Adoptions Unit.
(See the Forms section for sample acknowledgment form).

4.1.9 Conduct the Supervisory Visits

If the circuit court enters an Interlocutory Order of Adoption, supervisory visits must be made (Section 63.2-1212).

- 4.1.9.1 The agency must make at least three visits to the child within a six month period following the date the interlocutory order is entered.
- 4.1.9.2 Visits must be scheduled so that no less than 90 days elapse between the first and last visit.
- 4.1.9.3 The visits must be in the presence of the child. One visit must be in the home of the petitioners with the child and both petitioners present unless the petition was filed by a single parent or one of the petitioners is no longer residing in the home.
- 4.1.9.4 If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to court must include the results of the contact.
- 4.1.9.5 If the petitioners move from Virginia prior to completion of the three visits, the agency must request the assistance of an agency in the new state of residence in completing the visits. This is done through the Interstate Compact on the Placement of Children.

4.1.10 Complete the Report of Visitation

- 4.1.10.1 The Report of Visitation is sent to the court within 15 days of the last visit.
- 4.1.10.2 The format for the report of visitation must be that prescribed by the adoptions unit. (See the Forms section for a sample Report of Visitation Format).
- 4.1.10.3 Prepare four copies of the report.
- Send original to the court with certificate of service (see the Forms section for this form).
- Send one copy to the Adoptions Unit.
- Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.
- Keep one copy in agency's file until final action by the court.
- 4.1.10.4 The agency must submit any additional information requested by the Adoptions Unit.
- 4.1.10.5 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee shall be provided by the local department of social services to the court prior to the entry of the final order (section 63.2-1248).

4.1.11 What Must Be Done Following Final Disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the

child acquires parents other than his natural parents and a person(s) acquires a child other than by birth.

4.1.11.1 After the expiration of six months from the date of entry of the final order from which no appeal has been taken, the validity of the final order shall not be subject to attack for any reason including but not limited to fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction (Section 63.2-1216).

4.1.11.2 Acknowledgment

The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

4.1.12 Closing the Case

The agency must purge the record of duplicate material and send to the Adoptions Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to the Adoptions Unit for Preservation in a Non-agency Adoption").

4.2 Responsibilities of the attorney.

In this type of adoption, the attorney has primary responsibility for the work that must be done. The attorney:

4.2.1 Files the petition for adoption (Section 63.2-1201).

4.2.1.1 the petition must be signed by the petitioner and the petitioner's attorney, if any;

4.2.1.2 If the petition seeks entry of a final order without referral for investigation, the petition must be under oath.

4.2.2 Obtains required consents, which are to be filed with the petition for adoption. When the child has resided in the home of the prospective adoptive parents continuously for at least three years, consent is executed in accordance with Section 63.2-1202, of the Code of Virginia.

The consent must be in writing, signed by the birth parent under oath, and acknowledged by a notary public (Section 63.2-1202.10A).

4.2.2.1 The mother;

4.2.2.2 The legal father;

The mother's husband is presumed to be the child's legal father. Even if he is not the child's birth father, his parental rights must be addressed.

If the mother is divorced and the child was born within ten months of the divorce decree, the former husband is considered the legal father.

This presumption may be rebutted by sufficient evidence, satisfactory to the court, which would establish by a preponderance of the evidence the paternity of another man or the impossibility or improbability of cohabitation of the birth mother and

her husband for a period of at least 300 days preceding the birth of the child. In this case, the consent of the mother's husband is not required. the birth father;

- 4.2.2.3 The 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 required identifying information is filed in writing with the court.

The written consent can be signed prior to the birth or must be executed after the birth of the child, shall advise the birth father of his opportunity for legal counsel and shall be presented to the court for acceptance.

The consent may waive further notice of the adoption proceedings.

- 4.2.2.4 The child who is fourteen years of age or older, unless the court finds that the best interest of the child will be served by not requiring such consent;

- 4.2.2.5 If consent cannot be obtained from at least one parent, the court shall deny the petition and determine custody of the child pursuant to Code Section 16.1-278.2 unless all parents are deceased (Section 63.2-1233.3).

- 4.2.2.6 If both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent (Section 63.2-1233.5).

- 4.2.2.7 When the consent of one parent has been obtained, the consent of the other parent is not required:

If the parent is deceased;
(Section 63.2-1202.c.1);

When the parents of a child born in wedlock are divorced and the residual parental rights and responsibilities of the parent have been terminated by

the divorce decree or another order of a court
(Section 63.2-1202.c.1);

When consent has been obtained from the birth mother, consent of the birth father who was not married to the birth mother at the time of the child's conception or birth is not required if (Section 63.2-1202.c.2);

The birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable (Section 63.2-1233.1a);

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 fails to object to the proceeding with twenty-one days of the mailing of the notice (Section 63.2-1233.1a); or

The putative birth father named by the birth mother denies under oath and in writing paternity of the child
(Section 63.2-1203);

4.2.2.8 When the consent of one parent has been obtained, the consent of the other parent(s) may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable (Section 63.2-1203):

fifteen days after personal service of notice of the petition for adoption (when personal notice is by certified or registered mail, there should be a returned postal receipt signed by the parent to indicate that notice was received.); or

if personal service is unobtainable, ten days after the completion of the execution of an order of publication

against the party or parties whose consent is required; or

if the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

- 4.2.2.9 No consent shall be required from the birth father of a child placed for adoption through a parental placement when such father is convicted of rape or incest and the child was conceived as a result of such violation, nor shall the birth father be entitled to notice of any of the adoption proceedings (section 63.2-1233.7).

4.2.3 Prepares the appropriate orders.

In this type of placement, neither an Order of Reference (Section 63.2-1238) nor an Interlocutory Order (Section 63.2-1210.4) needs to be entered. In most cases, a final order is filed with the petition and consent.

4.2.4 Assists the petitioners in obtaining a new birth certificate for the child.

- 4.2.4.1 Before entering a final order of adoption, the court shall require the preparation of a report of adoption on a form furnished by the state registrar of vital records (VS-21).

4.2.4.2 The report shall:

include such facts as are necessary to locate and identify the original certificate of birth;

provide information necessary to establish a new certificate of birth; and

identify the order of adoption and be certified by the clerk of court.

4.3 Responsibilities of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least three years.

4.3.1 The clerk of the court where the petition is filed sends a copy of the petition, order of reference, or interlocutory order and all exhibits to the local department of social services. A copy is also sent to the Commissioner. The petition must be signed by the petitioner and counsel of record, if any (Section 63.2-1201).

4.3.2 If, after considering evidence, the court finds that the valid consent of any person whose consent is required is withheld contrary to the best interests of the child or is unobtainable, the court may grant the petition without consent (Section 63.2-1203):

4.3.2.1 **fifteen** days after personal service of notice of the petition on the party whose consent is required;

4.3.2.2 If personal service is unobtainable, ten days after the completion of the execution of an order of publication against the party whose consent is required; or

4.3.2.3 If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

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 which would refute such an affidavit (section 63.2-1203a).

4.3.3 The court may omit the Order of Reference and the Interlocutory Order and enter a Final Order.

4.3.4 In those parental placements where an interlocutory order is entered, visitations will be required, (Section 63.2-1212A) the agency is required to furnish a report of the finding of the visitation. The court may take any action it finds appropriate if the report is not submitted in the specified time. The court may:

- 4.3.4.1 enter a final order,
- 4.3.4.2 enter an interlocutory order,
- 4.3.4.3 deny petition,

If the court denies the petition and the child is without proper care, the court may appoint a guardian for the child or commit the child to a custodial agency (section 63.2-1209),
- 4.3.4.4 dismiss petition,
- 4.3.4.5 continue proceeding, or
- 4.3.4.6 schedule a hearing.
- 4.3.5 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court (Section 63.2-1214).
- 4.3.6 The clerk of the court sends to the agency and to the Commissioner a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Commissioner for preservation (Section 63.2-1213).
- 4.3.7 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the state board of social services. The court shall not enter a final order of adoption until proof of payment of fees has been received (Section 63.2-1248).
- 4.3.8 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.
- 4.3.9 After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a completed Report of Adoption (VS-21), and a completed Application for a Certified Copy of a Birth Record (VS-6), with a check from the petitioners

for the required fee.

4.4 Responsibilities of the Commissioner

The Adoptions Unit is the office which carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 4.4.1 establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family (Section 63.2-1246);
- 4.4.2 monitoring and evaluating adoption cases and submitting reports to courts (Sections 63.2-1208.b and 63.2-1212, *Code of Virginia*); and
- 4.4.3 arranging, through the Interstate Compact on the Placement of Children, for investigation and supervisory visits to be made when the petitioners move prior to completing the adoption (chapter 10, of the *Code of Virginia*).

5. THE ADOPTIVE HOME STUDY

The manner in which a family receives a child for adoption shall have no bearing on how the family is to be assessed for purposes of adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, by the birth parents, or by a legal guardian.

The adoptive home study is a process that involves the adoptive applicants in determining with the agency whether they can meet the needs of an adopted child. The home study should be carried out so that it brings about increased understanding of the adoption process and begins to prepare the applicants for adoption.

5.1 METHOD OF STUDY

5.1.1 Interviews

The home study consists of a series of interviews in which the adoptive applicant and the worker exchange factual information, discuss emotional factors involved in adoption, and come to recognize feelings and attitudes that may affect adoption.

There shall be a minimum of three interviews. At least one interview must occur in the home of the adoptive family and, in the case of married applicants, shall be a joint interview with husband and wife.

5.1.2 In a parental placement, the agency social worker shall meet at least once with the birth parent(s) and at least once with the prospective adoptive parents. If the birth parents and prospective adoptive parents agree the meetings can occur simultaneously or separately. If the social worker is unable to meet simultaneously with the birth parent and the prospective adoptive parent it must be documented in the report. The court may waive the requirement of the simultaneous meeting where the opportunity for compliance is not reasonably available under the applicable circumstances.

5.1.3 All members of the household shall be interviewed as part of the home study, including children when appropriate.

5.2 References

Adoptive applicants shall provide at least two references from individuals who are unrelated to them.

5.3 Criminal records

5.3.1 Adoptive applicants, and all other adults residing in the home, shall identify any criminal convictions and be willing to consent to a criminal records search;

The adoptive parent(s) shall submit to fingerprinting and provide personal descriptive information to be forward with the fingerprints through the Central Records Exchange to the Federal Bureau of Investigation for the purpose of obtaining a national criminal record check regarding such applicant and adult household member(s). (Section 63.2-901.1 *Code of Virginia*).

5.3.2 Adoptive applicants, and all other adults residing in the home, shall not have been convicted of a felony or misdemeanor which jeopardizes the safety or proper care of the child.

The application for adoption must be denied if the adoptive applicants, or another adult residing in the home, have been convicted of criminal sexual assault, or taking indecent liberties with children.

Section 63.2-1205.1 Code of Virginia, An adoptive applicant must also be denied if the applicant is a person who has been convicted of a violent sexual offense or is required to register on the sex offender & crimes against minors registry.

The agency shall exercise professional judgment in the approval or denial of applicants where convictions of other felonies and misdemeanors are found. The applicant's record shall document the reasons for the approval or denial. No denial shall be based solely on arrest information where no conviction has been made.

If an adoptive applicant was convicted of a felony drug possession and ten

(10) years have passed since the conviction; and his/her civil rights have been restored by the Governor, the applicant may be approved.

The adoptive applicant is responsible for getting their rights restored.

5.4 Child protective services and Division of Motor Vehicle records.

5.4.1 Adoptive applicants, and all other adults in the household, shall be willing to consent to a search of the child protective services central registry.

5.4.2 If an agency believes it is needed, it may require consent to check Division of Motor Vehicle Records.

5.5 Medical examinations

Adoptive applicants shall provide a physician's statement that reflects their current health and that states that they are in satisfactory physical and mental health to enable them to provide adequate care to the child.

5.6 Approval period

A home study conducted for purposes of parental placements shall be approved for a period of 36 months from the date of completion of the study.

Section 63.2-1234.1.B, Code of Virginia, provides, any home study conducted pursuant to this section for the purpose of parental placement or agency placement shall be valid for a period of 36 months from the date of completion of the study. However, the Board may, by regulation, require an additional state criminal background check before finalizing an adoption if more than 18 months have passed from the completion of the study.

5.7 Assessment of the family

A thorough assessment of the adoptive family is critical in evaluating whether the placement is in the best interest of the child. The following criteria should be used as guidelines in completing an adoptive home study:

5.7.1 Motivation to adopt

Key Considerations

- Degree to which both spouses want to adopt
- If infertility is one reason for adoption, how have parents dealt with loss of biological child
- Messages parents have learned about adoption from their (other) experiences.
- Degree to which other family members support adoption
- Perceived need adoption will meet for parents

Facts

- How long parents have considered adoption
- Reasons for adoption
- Who first spoke of adoption
- Reactions of spouse, children, significant others
- Fertility procedures undertaken
- Parents' feelings about infertility
- How they've coped with the loss
- Prior experience with adoption
- Knowledge of adoption from other individuals/sources

Documentation

Notes from interviews with applicant that describe parents' reasons for adoption, their thoughts and feelings and perception of need adoption will meet and others' responses to adoption

5.7.2 FAMILY BACKGROUND AND FAMILY RELATIONSHIPS

Key Considerations

- Emotional maturity, stability, physical and mental capabilities
- Ability to cope with problems, disappointments and frustrations
- Capability to accept and handle loss
- Nature and duration of family relationships
- Ability to be flexible in their expectations of others and in their role as parents
- Ability to respond to the needs of others
- Ability to accept normal hazards and risks
- Capability to take responsibility for one's own actions
- Ability to commit to another individual
- Capability to know one's strengths and limitations
- Extended family's ability to accept an adopted child as an equal member of the family, entitled to all benefits and responsibilities
- Role of religion in current family life

Facts

- Physical description
- Date, place of birth
- Information about parents and siblings (Names, ages, location, marital status, health status, education, current employment, ages of children of sibs, others living in parents' household)
- Current relationships with parents and sibs and children living outside the home

- Childhood experiences:
 - Parents' marital relationship
 - Parental roles each assumed
 - Disciplinary techniques
 - Communication
 - Interests/activities
 - Expression of affection
 - School experience
 - Family values
 - Religion
- Education
- Employment History
- Military service
- Physical health
- Mental health, counseling
- Hobbies/interests/community involvement
- Past losses and how they've coped
- Problem-solving style
- How individual's needs are met
- How difficult situations have been handled
- Amount of contact and degree of intimacy with nuclear and extended family member
- How individual has changed over time and how change has occurred, include examples of how individuals has changed in response to needs of others
- Words used to describe self, strengths, limitations

- Individual's role/job in managing household
- How both positive and negative feelings are expressed
- Sources of support
- Extended family's response to adoption in general and to the particular child
- Language family members use about adoption
- Religious denomination and degree of involvement in religious activities.

Documentation

Notes from interviews with applicant and other family members, autobiography or other similar written exercises. Statement from counselor, where applicable and physician's statements/medical form.

5.7.3 Adoption issues

Key Considerations

- Ability to love, nurture and make a life-long commitment to a child not born to them
- Ability to accept the circumstances of a child's birth and birth family history
- Ability to demonstrate empathy for a child's birth parents
- Capacity to understand the life-long impact of adoption and to help child deal with the adoption issues of identity, loss, intimacy, control, and attachment
- Ability to understand the relationship between child development and adoption
- Capacity to develop a sense of entitlement to parent a particular

- child and to "claim" that child as an equal member of their family
- Capacity to accept professional and personal support
- Ability to lower expectations of child in response to child's needs
- Ability to maintain contact with significant others in child's life (including birth and former foster families and siblings)
- Willingness and ability to talk openly and comfortably about child's adoption with the family
- Understanding of search laws and willingness to offer on-going support to child if he/she decides to search
- Understanding of how attachments are formed and willingness to work at forming healthy attachments with a child even when they resist it
- Ability to understand and cope with health and behavioral issues of the child

Facts

- Types of long-term commitments family has made in the past which have endured over time, especially during high stress times
- Knowledge of unique experiences and losses of adopted children and how they effect children's development and how children's developmental stage effects their response to trauma
- Type of life experiences that demonstrate understanding of why people make different choices than they do or are unable to make good choices and ability to show care and concern for people when they make those choices
- Words parents use to describe birth parents and why child placed for adoption
- Parents' response to core issues in adoption, how they impact them, child and birth parents and their ideas about how to deal with

them

- Parents' perception of how they and child will change over time
- Parents' expectations, hopes and plans for child
- How parents define "family"
- Language parents use about adoption
- Examples of circumstances when parents have lowered expectations of others and still maintained close relationship with them
- How parents have changed over time and what provoked those changes
- Types of risks parents are willing to take
- Level and types of convictions parents have maintained with family and friends
- Parents' use of outside supports
- Knowledge of search laws and parents' feelings about search
- Examples of parents' abilities to delay gratifications
- Types of attachments parents have formed in the past
- Families' understanding of the risks associated with adoption
- How applicant plan to tell child about his/her adoption
- What the parents do if they do not want the child in the home any more
- Examples of the types of people that the parents have given up on before

- Examples of what will make parents want to "give up" on their child

Documentation

Notes from interviews with applicant, autobiography of application or other similar written information.

5.7.4 Quality of marital and other relationships

Key Considerations

- Capacity to develop and maintain long-term relationships
- Capacity of the relationship or the single parent to sustain high levels of stress and change
- Degree of openness in the family system
- Ability to solve problems and make decisions (jointly, if married)
- Degree to which communication is open, clear, sensitive to others' needs, reflective of true feelings, responsive to the situation, consistent with behavior and effective
- Presentation of an accurate "picture" of family relationships and interactions

Facts

- Relationships with friends (length, effort made to maintain contact, how much they accept and give help and support)
- Problem-solving and decision-making styles of parent(s)
- For single parents, who do they consider, related or non-related a part of their family system
- The length of marriage. How family talks about both negative and positive events and feelings

- The ways in which affection and anger, are demonstrated. How conflict is resolved
- Pattern of communication and degree to which it meets the individuals' needs
- What are marital roles? Strength and weakness and how complement each other
- What makes these people stay married to each other. Previous marriages; when and why marriage ended; what learned from experience, what do they do when they spend time together?
- If been to marriage counseling, how long and what issues addressed

Documentation

Autobiography notes from interviews. Reference letters, marriage/divorce certificates (where applicable).

5.7.5 PARENTING SKILLS

Key Considerations

- Parenting style
- Relationship between how you were parented and how you will or do parent
- Applicant's understanding of physical, developmental, emotional need of children
- Applicant's understanding of the impact of adoption on children in the home and family routines
- Ability to develop and adjust realistic expectations of children
- Ability to separate their needs from child's needs

- Ability to communicate effectively
- Ability to assume responsibility for care, guidance, protection of children
- Willingness to try new parenting approaches in order to more effectively meet child's needs and manage behavior
- Willingness to formulate a plan for child's care, if one or both parents are deceased
- Ability to feel satisfaction from allowing children to grow and develop in their own way and at their own pace
- Age of applicants in relation to the age of the child

Facts

- Experience with children
- Applicant's communication and problem-solving style
- Types of nurturing behaviors applicants demonstrate
- Applicant's views of children, anger and types of behaviors they are most/least comfortable with
- How family routine will be affected by adoption
- Applicant's plans for child, if deceased
- How family expresses affection and anger
- Knowledge of child development and changing needs and expectations of children over time
- Expectations of children
- Family routine
- Description of parenting style of family of origin (discipline,

communication, values, experience of affection and anger, history of abuse/neglect)

- Criminal and child abuse/neglect history
- Description of children in home (age, developmental and emotional needs, perceived impact of adoption)
- How applicant identifies his/her needs, how they separate their needs from needs of others and how they get their needs met
- Self-esteem of applicant
- Examples of how applicant is able to delay gratification
- Examples of how applicant has been open to new ideas and has been willing to try a new approach to problems they have been faced with
- Applicants plans for child care when they are not available to supervise (i.e. babysitters and day care)

Documentation

Autobiography or other similar exercises, notes from interviews, and reference letters.

5.7.6 Home and community

Key Considerations

- Health and safety of environment
- Space for play and privacy
- Accessibility of community resources

Facts

- Description of house and neighborhood

- Fire arms, ammunition and other weapons are unloaded and kept in locked areas
- Description of family's proximity to community resources
- Safety devises, such as smoke alarms and fire extinguishers are apparent and are operable

Documentation

Notes regarding worker's observations

5.7.7 Financial Circumstances

Key Considerations

- Ability of applicant to meet the financial needs of adopted child and family

Facts

- Financial resources of applicant
- How applicant manages those resources

Documentation

Financial statement, employer's verification

5.7.8 Type of child applicant can parent

Key Considerations

- What applicant needs from a child and ability of child to meet that need
- Ability of applicant to meet special needs of children
- For Parental Placements adoption, applicant's ability to manage legal and emotional risks and maintain ongoing contact with birth parents

- For Inter-country adoption, applicant's ability to manage health risks and unknown background of child
- For Special Needs adoption, applicant's ability to manage special needs of the child

Facts

- Types of behaviors and background issues applicant is most/least comfortable with and able to handle
- Applicant's description of child(ren) they want to adopt
- Worker's assessment of the needs of the applicant and the degree to which those needs can be met by the type of child requested
- Worker's assessment of the needs of the child and the degree to which those needs can be met by the applicant

Documentation

Written summary of worker's assessment

6. ADULT ADOPTIONS

An adult adoption is the adoption of any person who is 18 years of age or older at the time that the adoption petition is filed. Adult adoptions are governed by the provisions in Chapter 12, Article 5 of the *Code of Virginia*.

The circuit court may, without an investigation or supervisory period, enter a final order in the adoption of an adult if consent has been obtained from the person to be adopted, if the person to be adopted is: (Section 63.2-1244):

- A stepchild parented by the petitioner at least three months;
- A child who is adopted by a close relative as defined in section 63.2-1242.1 as grandparent, great-grand parent, adult nephew or niece, adult brother or sister, adult uncle or aunt or adult great uncle or great aunt;
- A birth child; or
- Any adult who has resided in the home at least three months before age eighteen

The circuit court must require an investigation and report when the petition for adoption is for a person 18 years of age or older when there is no relationship between the adoptee and the petitioner (Section 63.2-1244).

- The person to be adopted must be at least fifteen years younger than the petitioner;
- The petitioner and the person to be adopted must have known each other for at least one year prior to the filing of the petition for adoption; and

The circuit court may also, in its discretion, require an investigation in any adult adoption.

6.1 Responsibilities of the agency in adult adoption

When the circuit court requires an investigation, the agency must:

6.1.1 Open the case

6.1.1.1 Set up a case record.

A case record should contain the following documentations:

Service application (court order),
all court documents,
Report of Investigation, if applicable,
Report of Visitation, if applicable,
all correspondence, and
narrative.

6.1.2 Review the petition and Order of Reference

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with an adult.

The order of reference is an order from the court directing an agency to make an investigation and report.

6.1.2.1 The petition and order of reference must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) resides and the case has been referred to the proper agency. The petition must be signed by the petitioner and by the counsel, if any (Section 63.2-1201).

6.1.2.2 If an order of reference is entered in one of the situation where an investigation is not required, the attorney should be contacted to make certain that he is aware the court may enter a final order without

investigation. If the order of reference is not rescinded, the agency is responsible for making the investigation and report.

- 6.1.2.3 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or if it appears to be in the best interest of the person being adopted for another agency to make the investigation:

the agency is to request that the court enter an amended order referring the investigation the agency in the location where the petitioner has taken up new residence.

If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.

- 6.1.2.4 The order of reference must be acknowledged to the court with a copy to the Adoption Unit. The acknowledgement must show the date of receipt of the order and the name of the agency (Section 63.2-1208, *Code of Virginia*). The acknowledgement is in the Forms section.

6.1.3 Review of the Consents

The agency does not have any responsibility for obtaining written consent. The agency is responsible for reviewing the consent to determine if:

- 6.1.3.1 Valid consent has been obtained from the person being adopted (Section 63.2-1243.b, *Code of Virginia*)

Consent does not have to be obtained from either birth parent (Section 63.2-1243.a, *Code of Virginia*)

- 6.1.3.2 Consent has been properly executed. The consent must be signed, dated, and notarized and must identify the person being adopted and the petitioner(s) by name (Section 63.2-1202.A and 16.1-262, *Code of Virginia*).

6.1.4 Inquiries Made During the Investigation

In those cases in which an investigation must be made, the report to the court must be made within 60 days after the copy of the petition is forwarded (63.2-1243 and 63.2-1208.B)

The Code requires the following questions be answered: 63.2-1244

- 6.1.4.1 Whether the petitioner(s) is financially able, morally suitable, in satisfactory physical and mental health, and a proper person(s) to care for and train the person to be adopted;
- 6.1.4.2 What the physical and mental condition of the person to be adopted is;
- 6.1.4.3 Why the birth parent of the person to be adopted desire to be relieved of the responsibility for the custody, care and maintenance for the person to be adopted and what their attitude is toward the proposed adoption;
- 6.1.4.4 Whether the parents have abandoned the person to be adopted or are morally unfit to have custody over him;
- 6.1.4.5 The circumstances under which the person to be adopted came to live and is living in the home of the petitioner(s);
- 6.1.4.7 What fees have been paid by the petitioners or in their behalf, if appropriate.
- 6.1.4.8 Relevant physical and mental history of the birth parents, if known to the person making the report
 - An investigation is not necessary to report the physical and mental history of the birth parents.
 - This information is reported only if it is known to the agency.

6.1.5 The Investigation Includes:

- 6.1.5.1 Interviews with:
 - adoptive parents,

the person being adopted,

references - contact in person, by mail or telephone,
and

professional persons involved with either the
petitioner(s) or person to be adopted;

6.1.5.2 home visit;

6.1.5.3 medical statements on the adoptee and adoptive parents in
non-relative cases; and

6.1.5.4 information on the adoptive parents' income in order to
determine the fee assessed.

6.1.5.5 If unable to complete the investigation:

The court and the Adoption Reports Unit must be notified if
the investigation and report are delayed and cannot be
completed within 60 days.

A report must be sent to the court with a recommendation for
abeyance. The report must include the reason(s) for the
delay or inability to complete the investigation and the period
of time needed to complete the investigation.

If the petitioner(s) cannot be contacted or located, the
agency is to submit a report to the court and recommend the
petition be dismissed.

6.1.6 Prepare the Report of Investigation

6.1.6.1 The format of the report must be that prescribed by the
Adoption Unit. The Report of Investigation Format and
Checklist in the Forms section outlines information to be
included in the report.

- For purposes of confidentiality, the report must not
contain identifying information on the biological family.

- The report must contain a recommendation as to the action to be taken by the court. (63.2-1208.C, 63.2-1244).

6.1.6.2 Prepare four copies of the report

Send original to the court with Certificate of Service showing copy of report was sent to the Adoption Unit. The Certificate of Service in the Form section.

Send one copy to the Adoption Unit with completed Commissioner's Confidential Reports form found in the Forms section.

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

Keep a copy in agency's file until final disposition.

6.1.6.3 The agency must submit any additional information requested by the Adoption Unit. In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid.

- A receipt must be provided to the court by the local department of social services which completed the investigation and court report to provide proof of payment of the fee. (Section 63.2-1248)

6.1.7 A Supplementary Report

6.1.7.1 Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a

result of a recommendation for abeyance.

6.1.7.2 Send original to the court, a copy to the Adoption Unit and to the attorney. One copy is retained in the agency's file. See format for Supplementary Report in the Forms section.

6.1.8 What must be done following entry of an interlocutory order, if the court in its discretion decides to enter the order.

6.1.8.1 Conduct Supervisory Visits (Section 63.2-1212)

- The agency must make at least three visits within six month period following the date the interlocutory order is entered.
- The visits must be in the presence of the adopted person
- One visit must be in the home of the petitioner(s) with the adoptive person and both petitioners present unless one of the petitioners is no longer residing in the home.
- Visits must be scheduled so that at least 90 days elapsed between the first and last visit.

If one of the petitioners is no longer living in the home, the agency must contact that petitioner to determine if he/she desires to remain a party to the proceedings. The report to court must include the results of the contact.

If the petitioner(s) moves from Virginia prior to completion of three visits, the agency must request assistance from an agency in the new state of residence in completing the visits.

Since this type of adoption does not involve the placement of a child across state lines, the Interstate Compact on the Placement of Children does not apply.

6.2 Report of visitation

6.2.1 The report of Visitation is sent to the court within 15 days of the last visit.

6.2.2 The format for the Report of Visitation must be that prescribed by the Adoption Unit. The Report of Visitation Form is in the Forms section.

6.2.3 Prepare four copies of the report.

Send original to the court with Certificate of Service shown in the Forms section.

Send one copy to the Adoptions Unit.

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the clerk of court to have the case placed on the docket for final disposition. Do not send the petitioner(s) a copy of the report.

Keep one copy in agency's file until final action by the court.

The agency must submit any additional information requested by the Adoptions Unit.

6.2.4 In those instances where a local department of social services has provided services and the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid.

Proof of payment of the fee shall be provided by the local department of social services to the court prior to the entry of the final order. (Section 63.2-1248)

6.3 What Must Be Done Following Final Disposition

Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A final order is not subject to attack after six months from the date it was entered and is final for all purposes

(Section 63.2-1216).

6.3.1 Acknowledgement and disposition of case material

6.3.1.1 The agency must review and acknowledge receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgement should be sent to the Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

6.3.2 The acknowledgement is in the forms section.

The agency must purge the record of duplicate material and send to the Adoption Unit for preservation original copies of all pertinent material that has not been sent (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be Forwarded to Adoption Reports for Preservation in a Non-agency Adoption").

6.3.3 Closing the Case

The case should be closed when the final order of adoption is received.

6.4 Responsibilities of the attorney in an adult adoption.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

6.4.1. Files the petition which must be signed by the petitioner and by counsel, if any, (Section 63.2-1201)

6.4.2 Obtains required consents (in an adult adoption, only the consent of the person to be adopted is required). Section 63.2-1243.a

6.4.3 Prepares appropriate orders,

6.4.4 Informs the petitioners of the legal requirements,

6.4.5 Assists the agency in obtaining necessary verifications, and

6.5 Assists the petitioner(s) in obtaining a new birth certificate for the person being adopted.

6.6 Responsibilities of the court

- 6.6.1 The investigations and visitations shall not be required unless the court, in its discretion, so requires (section 63.2-1244).
- 6.6.2 The clerk of the court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the director of the department of social services and to the Commissioner. The petition must be signed by the petitioner and by counsel, if any. (Section 63.2-1201).
- 6.6.3 The circuit court shall expeditiously consider the merits of the petition upon receiving the report of investigations. (Section 63.2-1208) The court may:
 - 6.6.3.1 enter a final order,
 - 6.6.3.2 deny petition,
 - 6.6.3.3 dismiss petition,
 - 6.6.3.4 continue proceeding, or
 - 6.6.3.5 schedule a hearing.
 - 6.6.3.6 enter an interlocutory order (an interlocutory order is not required in an adult adoption and is seldom entered by the court).
- 6.6.4 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court. (Section 63.2-1212)
- 6.6.5 The clerk of the court sends to the agency and to the Commissioner a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Commissioner for preservation. (Section 63.2-1213)
- 6.6.6 If the petition is executed under oath, the court may, without an investigation, enter a final order in the adoption of an adult if the person to be adopted is (Section 63.2-1244):
 - 6.6.6.1 A stepchild parented by the petitioner at least three months;

- 6.6.6.2 A child adopted by a close relative as defined as a grandparent, great-grandparent, an adult nephew or niece, adult brother or sister, adult uncle or aunt or adult great uncle or great adult who has lived in the home at least three months;
 - 6.6.6.3 A birth child; or
 - 6.6.5.4 Any adult who has resided in the home at least three months before age 18.
- 6.6.7 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court shall not enter a final order of adoption until proof of payment of fees has been received (Section 63.2-1248, *Code of Virginia*).
- 6.6.8 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate. (Section 63.2-1248)
- 6.6.9 After the entry of a final order, the clerk of court sends to the State Department of Health, Bureau of Vital Records and Health Statistics a copy of the final order of adoption which incorporates a change of name.

6.7 Responsibilities of the Commissioner

The Adoption Unit is the office which carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 6.7.1 Establishing a permanent record of all adoptions petitioned and providing post adoption services to adult adoptees and adoptive parents seeking background information on the biological family; (Section 63.2-1246)
- 6.7.2 Monitoring and evaluating adoption cases and submitting reports to courts (Section 63.2-1244, *Code of Virginia*).

7. Disclosure of information from closed adoptive records

The statute allows adults adopted in Virginia to apply to the Commissioner of Social Services, rather than petitioning the circuit court, for identifying information on their birth families. A petition to the circuit court may be made by the adult adoptee in certain cases. These cases involve those situations where the Commissioner fails, within thirty days of receipt of the application, to designate a person or agency to attempt to locate the birth family, or if the Commissioner denies disclosure of the identifying information after receiving the designated person's or agency's report.

Access to closed records for the purpose of releasing non-identifying and identifying information is governed by *Virginia Code* Section 63.2-1246.

Section 63.2-1247, of the *Code of Virginia*, was revised in 1995 to allow the entire adoption record in parental placements to be open to the adoptive parents, the adoptee who is eighteen years of age or older, and a birth parent who executed a written consent to the adoption, if the consent to adoption was executed on or after July 1, 1994. For adoptions where the consent was executed before July 1, 1994 the following procedures apply.

7.1 Release of non-identifying information from a closed adoptive record (Section 63.2-1246)

When a final order of adoption is entered, non-identifying information may be given to adoptive parents, licensed or authorized child-placing agencies providing services to the child and the adoptive parents, the adoptee, upon reaching the age of 18.

7.1.1 Open the case

7.1.1.1 When the request for information is forwarded from the Adoption Unit, a service application is completed.

7.1.1.2 Set up case records

An adoption search case record should contain the following documents:

- Service application (or court order);
- all information forwarded by the state.

7.1.1.3 Prepare materials for release

Prior to releasing information to the adoptee the record should be redacted to remove any information which would lead to the identification of any birth family member. This includes but is not limited to:

- Names, addresses and telephone numbers of all members of birth family.
- School attended and date of graduation (if applicable).
- Social Security numbers, military I.D. and other identifying numbers.
- Names of attending physician, teacher, family friends, etc.

The adoptee shall not be allowed to inspect the home study of the adoptive parents unless written consent has first been obtained from the adoptive parents. This includes:

- Reference letters on the adoptive parents.
- Questionnaires completed on themselves by the adoptive parents.
- Medical and psychologicals on the adoptive parents.
- AREVA Family's Registration Form
- Criminal record checks on the adoptive parent
- Child protective service checks on the adoptive parents
- The section of the report of Investigation or Home Study Report entitled Suitability to Adopt

- Any paragraph in the Report of Visitation that deals solely with the adoptive parents.
- The portion of the Commissioner's Confidential Report from pertaining to the adoptive parents.

7.1.1.4 Release of information to allowed individuals

The redacted information may be released to the allowed individuals when:

- The individual has presented a picture I.D. such as a driver's license.
- If it is not convenient for the adoptee to come to the local agency, the information should be sent to a licensed or approved social services agency or licensed human services practitioner (i.e., social worker, psychologist) or a minister in a location convenient to the requester, who will verify the identity of the individual and share the information with them.
- If there is concern that any information contained in the record could cause emotional trauma, then the record should be shared in a supervised setting with an adoption or mental health professional.

7.2 Release of identifying information (Section 63.2-1246)

Identifying information or any information that would lead to the identity of the birth family can only be released to an adult adopted whose adoption was finalized prior to July 1, 1994 under the following conditions:

7.2.1 The adoptee, 18 years of age or older, contacts the Virginia DSS to request that a search be initiated.

7.2.2.1 The adoptee needs to complete an "Adoptee Application for Disclosure" and return to the Adoption Unit at the central office of the Virginia Department of Social Services.

7.2.2 The adoption was finalized in the State of Virginia.

7.3 Responsibilities of the Commissioner in releasing identifying information

7.3.1 Upon receiving the Adoptee Application for Disclosure, the Commissioner shall designate the person or agency which made the investigation required by §63.2-1208 or §63.2-1212 to attempt to locate and advise the applicable member(s) of the birth family of the request for identifying information.

7.3.1.1 The Adoption Unit, acting for the Commissioner, will send the agency an Agency Letter of Appointment requesting the agency to conduct the search.

7.3.1.2 The agency has eight months unless otherwise determined by the Adoption Unit.

7.3.1.3 If the agency needs additional time, this will be granted if such need is documented in writing by the searching agency to the Adoption Unit.

7.3.2 Assist the agency in the search by providing technical assistance and case material from the adoption record(s).

7.3.3 Upon receipt of the agency's report of findings to the Adoption Unit, make a determination as to whether good cause exists for the release of identifying information.

7.3.3.1 The Adoption Unit will send the adoptee and searching agency a copy of the Final Disposition granting or denying the adoptee's Application of Disclosure.

7.3.3.2 The disclosure of identifying information will be granted when the birth family member(s) for whom the agency searched was located and consented to having his identity and whereabouts disclosed to the adoptee. However, the following extenuating circumstances are to be considered:

- if the birth parent is deceased and other family members who knew about the birth and adoption of

the adoptee want their names and addresses disclosed, good cause may exist for identifying information on these family members to be given to the adoptees if the adoptee wishes this.

- if one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not have their identity disclosed. Exceptions are:

If the other birth parent of the adoptee and sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child (in such a case, the searching agency could give informed consent relative to the disclosure of his identity and whereabouts);

If the birth parents was deceased and the sibling was contacted by the designated person or agency doing the search because the record or other information indicated that the sibling(s) knew the circumstances surrounding the child's placement and adoption, and the sibling(s) consented to disclosure.

If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he had contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.

Advise the adoptee of his right to file a petition with the appropriate circuit court if the Commissioner fails to designate within thirty days a person or agency to do the search or if the Commissioner denies the Adoptee Application for Disclosure after receiving the designated person's or agency's report.

7.4 Responsibilities of the designated person or agency conducting the search.

The designated person or agency conducting the search shall, upon receiving an Agency Letter of Appointment:

7.4.1 Open the case to

When the Application for Disclosure is forwarded, a case should be opened.

7.4.2 Set Up Case Records

A case record should contain the following documents:

7.4.2.1 Service application (letter of appointment);

7.4.2.2 Case information.

7.4.3 Attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure. The birth family member(s) is at least 18 years of age.

7.4.3.1 If the adoptee applies for identifying information on birth relatives other than his birth parent(s), the birth parent(s), unless deceased, must still be contacted and consent to having identifying information on themselves disclosed. An exception would be if the adoptee does not want identifying information his birth parents but does want identifying information on birth siblings adopted by non-relatives.

7.4.3.2 If one birth parent does not want his identity disclosed to the adoptee, other children of the birth parent who were not adopted or who were adopted by a relative should generally not be contacted. Exceptions are:

- If the other birth parent of the adoptee and the sibling(s) consents to disclosure and if the searching agency ascertains that the sibling(s) has been informed about the adopted child; or

- If the birth parent is deceased and information in the record or other information indicates that the sibling(s) knew about the circumstances surrounding the child's placement and adoption.
- 7.4.3.3 If the search is for a birth sibling who was adopted, at least one of the sibling's adoptive parents, unless both are deceased, must give his consent for the birth sibling to be contacted unless it is certain that the birth sibling knows that he was adopted. It may be ascertained that the birth sibling knew of his adoption if he had contacted the Virginia Department of Social Services or the placing agency to find out about his adoption or to ask that a letter be put in the file of adopted siblings.
- 7.4.3.4 In contacting relatives or persons who know the birth parent/sibling and can aid in the search, the searching agency is to use discretion. The confidential nature of the inquiry is not to be revealed unless it is clear from the record or other information that the contacted person knows the circumstances surrounding the child's placement and adoption.
- 7.4.4 Report to the Adoption Unit, or the court if applicable, the results of the attempt to locate and advise the birth family member(s) about whom the adoptee wants identifying information of the Adoptee Application for Disclosure.
 - 7.4.4.1 The agency's report shall be in the format prescribed by the in the Forms section and shall not include identifying information on the birth family. No identifying information is to be disclosed to the adoptee, the birth family, or any attorney representing the parties without proper authorization from the Adoption Unit or the court.
 - 7.4.4.2 Resources used to locate the birth family member(s) should be fully documented in the agency's report in those cases where agency efforts were unsuccessful.

- 7.4.4.3 If the birth family member(s) about whom the adoptee wants identifying information can be located, the agency's report shall include updated non-identifying information about him. The report should also indicate his wishes regarding having his identity disclosed and being contacted by the adoptee.
- 7.4.4.4 The agency's report shall include a recommendation regarding disclosure based on their findings. If the agency recommends that identifying information be disclosed, the agency may wish to offer its services as an intermediary or suggest some other agency or person be appointed.
- 7.4.4.5 If there is a fee, the agency's report shall include a statement indicating the amount of the fee assessed and whether or not the fee has been paid. The Adoption Unit cannot grant the release of identifying information unless the agency has provided verification that the fee has been paid.
- 7.4.4.6 If the agency needs additional time to conduct the search, the agency shall document this need in writing to the Adoption Unit. The agency shall inform the adoptee of the need for additional time and obtain the adoptee's written consent for an extension. The agency shall inform the Adoption Unit in writing that the adoptee has agreed to the extension.
- 7.4.5.7 If disclosure of identifying information is granted by the Adoption Unit, the searching agency is responsible for providing the identifying information to the adoptee.

7.4.5. Charge a fee for services (Section 63.2-1248)

The Code of Virginia allows fees to be assessed for adoption searches. To determine the amount of the fee to be charged, see section 9 of the chapter.

8. Other court ordered services

The court may direct the local department of welfare/social services to provide supervised visitation or mediation services or to conduct an investigation pursuant to §16.1-273 in adjudicating matters involving a child whose custody, visitation, or support is in controversy or requires determination.

8.1 Guidelines for custody investigations (§16.1-273)

These guidelines for child custody investigations are jointly issued by the State Board of Social Services and the State Board of the Department of Juvenile Justice Services (DJJS) pursuant to 16.1-278.15, *Code of Virginia*.

These guidelines set forth the basic assumptions and describe the preferred practices to be followed in conducting child custody investigations for Juvenile and Circuit Courts in the Commonwealth of Virginia. Sample forms are also provided for local units to consider using in their investigations.

In issuing these guidelines, the State Boards recognize that child custody investigations must always be conducted subject to the specific order of the court. The Boards further recognize that differing circumstances may sometimes warrant actions that differ from the preferred practices described in these guidelines. In such cases, the investigator and the investigator's supervisor should be prepared to justify the chosen alternative.

8.1.1 Purpose:

The goal of the custody investigation is to help the court determine the living and visitation arrangement that will enable the child to establish a meaningful relationship with both parents or the parties in the custody dispute.

8.1.2 Definitions:

"Custody" means a designation of legal and physical control of a child.

"Investigation" means a process of gathering and assessing information relative to the best interest of the child.

"Parties" means any adult(s) having established interest in the child.

"Joint Legal Custody" means equal responsibility and authority regarding the child.

"Shared Parenting" means any mutual agreement developed by parents or caretakers to share responsibility and care of the child.

8.1.3 Basic assumptions:

8.1.3.1 Custody investigations are guided by the principals of objectivity, competence, and thoroughness.

8.1.3.2 Whenever possible, custody investigations are limited to addressing issues that remain unresolved after the disputing parties have had the opportunity to resolve contested issues by mediation. Thus, the scope and depth of the custody investigation will vary depending on the degree to which the parties have been able to come to some agreement.

8.1.3.3 Information reported to court is always validated by supported documentation.

8.1.4 Qualifications of investigators:

To ensure the highest level of competence and accountability, custody investigators should have specific training that is current on issues related to the effect of custody disputes on children and appropriate techniques for interviewing children and families.

8.1.5 Consistency in gathering information:

When all parties reside in the same jurisdiction, one investigator should complete the assessment of both parents and the child. When one or more parties reside in another jurisdiction, the investigator should consult with professional staff in the other jurisdiction to ensure that all parties are asked for the same information in the same format.

8.1.6 Questionnaires:

- 8.1.6.1 If the investigator plans to use questionnaires to ensure that comparable information is obtained from the parents, the investigator should be aware that some parents may not understand or may be intimidated or put off by lengthy questionnaires, surveys, and forms. The investigator should use materials judiciously and should not rely on them as a primary source of information.
- 8.1.6.2 Whenever possible, the investigator should use the sample questionnaire that is provided with these guidelines. A shorter questionnaire may be used if it meets the needs of the court.
(See the Forms section for sample questionnaire).
- 8.1.6.3 Any questionnaire used should be reevaluated periodically to ensure that issues addressed and language used are current and appropriate.
- 8.1.6.4 The investigator may ask the parents to complete a questionnaire in advance of a home visit to help both the parents and the investigator prepare for the visit.

8.1.7 Authorization for release of information:

- 8.1.7.1 The parents or legal guardian should sign authorizations for release of information from schools, past or present counselors, substance abuse counselors, etc., as appropriate to the situation. A sample format is available.

(See the Forms section for this format).

8.1.7.2 The parents or legal guardian should be told that the information obtained will be made available to the court and to counsel through the court. The clerk of court shall furnish a copy of such report to all attorneys representing parties in the matter before the court no later than seventy-two hours, and in cases of child custody fifteen days, prior to the scheduled court hearing. (Section 16.1-274, Code of Virginia)

8.1.7.3 When various sources are asked for information and the parents or legal guardian sign an authorization to release the information as presented, the investigator should inform the source that the information will be made available to the court. (Section 16.1-274, Code of Virginia)

8.1.8 Information from observations:

8.1.8.1 The investigator should visit both parties' homes to determine if the environment is sanitary and safe; to observe how comfortable the child is in the home; and to observe the interaction between child and parent/caretaker and any other members of the household. A sample format for reporting observations is available.

8.1.8.2 When a child spends a large part of the time in a setting other than the home (for example, in school, day care or with a baby-sitter), the investigator should visit that setting to observe the child's level of comfort and interaction with others, etc.

8.1.9 Conducting interviews:

8.1.9.1 The investigator should always interview the involved parties face-to-face. A sample questionnaire is available for use in conducting the interview. The same questions should be asked to both parties regardless of the interview method utilized.

8.1.9.2 The investigator should personally interview those knowledgeable about the child's situation (such as teachers, school administrators, day care workers, baby sitters, neighbors, the child's physicians, and others, as applicable).

8.1.9.3 The investigator should interview the child alone to obtain the child's perception of each parent/party to the dispute, about daily events in the home, and, when applicable, the child's relationship with siblings and extended family members.

- Preferences of the child should be explored, but the child should never be asked to choose between parents or caretakers.

- Children's comments should be sent separately from the regular report to the court for the judge's review and discretionary use.

8.1.10 Court and department records:

The investigator should review all records concerning the child and the family that are available through the court and the local unit at the Department of Juvenile Justice Services and the Department of Social Services.

8.1.11 Record checks:

8.1.11.1 The investigator should secure a check of the Child Protective Services Registry and report the findings to the court.

8.1.11.2 The client should obtain a copy of his/her criminal records check through the police department and provide the investigator with a copy for inclusion in the report to court.

8.1.12 Letters of reference:

Three letters of reference must be requested. The individuals providing the references must be made aware their responses will be attached to the report sent to the court.

8.1.13 Investigator's assessment:

- 8.1.13.1 The investigator should offer an informed assessment of each parent's behavior as perceived through personal interviews, written records, and third party observations. Such assessment should consider each parent's:
- level of cooperation with the investigation;
 - stability in the work and home environment;
 - style of interpersonal interactions including discipline; and
 - ability to promote a positive relationship between the child and the other parent and family members.
- 8.1.13.2 Unless there is a formal psychological evaluation by an appropriately licensed practitioner, the investigator's report should not include a psychological assessment component.

8.1.14 Referral for further assessment:

When a custody investigation reveals evidence of substance abuse, mental health problems, dysfunctional family behaviors, or other problems that the investigator cannot immediately assess, the investigator should recommend to the court that the family, parent, or child be referred to an

appropriate third party for expert assessment. The investigator should also recommend that the assessment of all parties be completed by the same provider.

8.1.15 Preparing the information for the court:

- 8.1.15.1 The format for the report to the court should be left up to the locality.
- 8.1.15.2 If the investigator has made use of questionnaires, checklists, etc. that are not part of the local format, the investigator should make these materials available, upon request, to the court.
- 8.1.15.3 Information included in the report should be comprehensive and easy to read.

8.1.16 Options for recommendations:

- 8.1.16.1 If the court requests an investigator to make a recommendation, the investigator should consider recommending joint legal custody absent any convincing evidence to the contrary. If joint legal custody is not recommended, the investigator should specifically state why this custody arrangement is not appropriate to the specific child and family situation. Other recommendations that may be made, as appropriate, are:
 - Shared parenting.
 - Sole custody with visitation.
 - Sole custody with visitation denied.
 - Sole custody with supervised visitation.
 - Court determines custody.

8.1.16.2 Justification must be provided for any recommendation made.

8.1.17 Fees for services:

The Code of Virginia allows fees to be assessed for custody/visitation investigations. The amount of the fee is determined by the locality in accordance with Section 16.1-274, Code of Virginia. (See Section 9 for determining amount of fee).

9. Fees for Court Ordered Services

9.1 Fees for Non-agency placement adoption services and home studies in surrogacy cases (Section 63.2-1248, Code of Virginia).

The adoption services for which the local agency shall charge a fee are non-agency placement adoption investigations and reports; parental placement home studies; visitation and reports; and home study reports in surrogacy cases.

The agency may recommend that all or part of the fee be waived in cases of hardship due to unusual circumstances.

Fees are based on actual costs of services, including direct and indirect costs taking into consideration family income and size.

Determining Direct Costs of Services

In determining direct costs, the local departments of social services has the option of using the actual salary and benefits of the worker performing the services, and average of the salary and benefits, or the minimum salary and benefits.

If the actual salary and benefits of the worker performing the services is used, and a supervisor has to perform the service due to the worker being absent, the fee would be based on the amount of the salary and benefits of the worker that would have ordinarily performed the service to avoid overcharging.

If some form of average is used, the averaging should be based on the budget figures for the previous fiscal year and should be calculated on a yearly basis around May or June when the budget is reviewed. The method of averaging would be to average the actual salaries and benefits of the workers performing the services.

Example:

If an agency had a Social Worker I earning \$15 an hour in salary and benefits, a Social Worker II also earning \$15 an hour, a Social Worker III earning \$16 an hour, and a Social

Work Supervisor (who has a normal caseload) earning \$18 an hour, the agency would calculate an average of \$16 an hour.

If minimum salary and benefits is chosen, the first step of the compensation schedule for a social worker for the agency is used. The only recalculating would occur when the agency changes or updates the compensation schedule. This method is very simple and will insure that the salary charged will not exceed the actual salary and benefits of the worker performing the service.

9.1.2 Determining Indirect Costs of Services.

Annually, the Bureau of Local Reimbursement of the State Department of Social Services will continue to calculate for each local agency an indirect cost factor to cover expenses other than the direct worker's salary and benefits (such as overhead costs).

Local agencies will record the time that a worker spends providing the service.

- 9.1.2.2 The time spent providing the service will be multiplied by the combined worker's hourly salary and benefits: Refer to the section on Determination of Direct Costs) and the Indirect cost.

Example:

20 hours (time to provide services)

\$16 (worker's hourly salary and benefits)

Indirect cost factor of \$.50

Combined worker's hourly salary and benefits plus indirect costs=
 $\$16 + 8 (16 \times \$.50) = 24$

20 hours x \$24 = \$480 (to be adjusted for family size and income)

9.1.3 Income and Family Size

A fee schedule, based upon family size and income, shall be developed annually using the median income level for Virginia.

Determine the family size and income. For purpose of determining family size, include all persons for whom the petitioner/applicant and spouse are responsible.

Determine the petitioner's/applicant's percent of median income using the median income scale disseminated by the Generic Policy Unit. If income falls between two percentages, the lower figure shall be used to determine the amount of the fee assessed. The median income scale is revised annually.

9.1.3.3 Using the percentage of fee scale shown here determine the fee to be assessed

Families with 50% or less of median income shall not be charged a fee.

Families whose income falls at 60% of median income shall be charged 10% of the actual costs.

Families whose income falls at 70% of median income shall be charged 25% of the actual costs.

Families whose income falls at 80% of median income shall be charged 50% of the actual costs.

Families whose income falls at 90% of median income shall be charged 75% of the actual costs.

Families whose income falls at 100% of median income or above all be charged 100% of the actual costs.

Example

The court orders the petitioner/applicant to pay a fee. The cost is calculated to be \$480. Using the median income scale, the fee is adjusted for family size and income. The worker determines that the petitioner's/applicant's annual income falls between 80% and 90% of the median. The worker uses the lower figure of 80%. Using the scale shown

above, the worker determines that the fee should be assessed 50% of the \$480 or \$240.

- 9.1.3.4 Local agencies shall include in reports to the court the amount of the fee assessed to the petitioners, if any. If a local agency finds an unusual circumstance that would affect a petitioner's ability to pay, it shall include this in its report to the court.

9.1.4 Collection and Reporting of Fees.

- 9.1.4.1 The fee shall be collected by the appropriate department of social services. The amount of the fee collected should be included in the agency's report to court.
- 9.1.4.2 The local agency shall report any fees collected as expenditures refunded on its financial report. The local agency's reimbursement from state and federal funds shall be adjusted to reflect the state and federal share of income collected.

9.2 Fee For Custody Investigations, Mediation Services, and Supervised Visitation.
(Section 16.1-274, Code of Virginia)

The court shall assess a fee in accordance with fee schedules established by the appropriate local board of social services.

The fee schedules shall include:

standards for determining the ability of the parties to pay; and

a scale of fees based on the parties' income and family size.

The fee charged shall not exceed the actual cost of services.

The method and medium for payment shall be determined by the local board of social services.

When a local department of social services is requested by another local department or court services unit in the Commonwealth or by a similar department or entity in another state to conduct an investigation involving a child's custody, visitation or support; or to provide mediation services or supervised visitation, the department may require fees prior to conducting the services.

9.3 Fees For Adoption Searches (Section 63.2-1246 and 63.2-1247, Code of Virginia)

Fees are based on actual costs of services, including direct and indirect costs, and taking into consideration family size and income. (See Section 9.1 for determining direct and indirect costs and family size income). The local agency should use 20 hours as an estimated time for services and may charge that amount in advance.

If the search is completed in less than 20 hours, the agency must return the non-expended funds if the cost was paid in advance. If the agency is not successful at the end of 20 hours, the agency has the following options.

The agency can inquire of the applicant if he wishes to continue the search and be charged for the additional hours (written permission from the applicant is mandatory); or

The agency can continue the search, but not charge the applicant more than the initial estimated fee which is based on 20 hours of work.

The agency has the authority (and responsibility) to waive part or the entire fee in unusual circumstances.

10. Intercountry Adoptions

An intercountry adoption is the placement into Virginia of a child already adopted in a foreign country or placement into Virginia of a child from a foreign country for the purpose of adoption. In most inter-country adoptions, the adoptive parents are encouraged to re-adopt in Virginia. Re-adoption, however, is not required to obtain a new birth certificate. See Section 63.2-1220, *Code of Virginia*.

10.1 Pre-adoptive Requirements

Prior to bringing a foreign born child into Virginia, the prospective adoptive parents must meet Virginia's pre-adoptive requirements as well as certain requirements of the Department of Immigrations. Families requesting information on Virginia's pre-adoptive requirements and requirements of the Department of Immigrations should be referred to the Inter-country adoption specialist in the Adoption Unit.

10.2 Adoptive Home Study

In most inter-country adoptions, the family will obtain an adoptive home study from a private agency. In these cases, the private agency that completed the home study will be responsible for the investigation and supervision required to obtain a final order of adoption in Virginia.

10.3 Responsibilities of the Local Department of Social Services in Inter-country adoptions.

There may be times when no Virginia agency was involved in assisting the family with pre-adoptive requirements. In these rare cases, the circuit court will refer the matter for investigation to the local department of social services in the county where the petitioners reside.

10.3.1 Case Opening

A case is opened when a petition for adoption is received from the circuit court. A petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with a child.

10.3.1. 1 Open the case.

10.3.1.2 Set up a case record

the case record should contain the following documents, if applicable:

all court orders,
all required documentation,

Report of Investigation,

all correspondence, and

narrative.

- if two children are on the same petition, only one case is needed.

10.3.2 Review the Petition and Order of Reference

The petition for adoption is usually accompanied by an order of reference, which is an order from the court directing an agency to make an investigation and report.

10.3.2.1 The petition and order of reference must be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioner(s) resides and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel of record, if any (Section 63.2-1201).

10.3.2.2 For a child born in another country, an affidavit by a representative of the child-placing agency that a birth certificate number is not available may be substituted for verification by a registrar of vital statistics for that country.

10.3.2.3 If the petitioner(s) moves from the agency's jurisdiction but within Virginia or it appears to be in the best interest of the child for another agency to make the investigation, the agency is to request that the court enter an amended order referring the

investigation to another agency. If the court denies the request for an amended order, the agency must complete the investigation and report. The services of another agency can be requested by the agency ordered to make the investigation.

- 10.3.2.4 The order of reference must be acknowledged to the court with a copy to the Adoptions Unit. The acknowledgment must show the date of receipt of the order and the name of the agency. The acknowledgment form is in the Forms section.

10.3.3 Review of the Consents

The agency does not have any responsibility for obtaining written consent. The agency is responsible for reviewing the consent and including a description in their report of the consent documents.

10.3.4 The Report of Investigation Includes:

- 10.3.4.1 Interviews with:

adoptive parents,

child, if of the age to participate,

- 10.3.4.2 Home visits to describe for the court the physical environment in which the child will live, and to observe interactions between the parent and child in a familiar environment.

- 10.3.4.3 Information on the adoptive parents' income in order to determine the fee assessed.

- 10.3.4.4 If unable to complete the investigation

— The court and the Adoptions Unit must be notified if the investigation and report are delayed and cannot be completed within 60 days.

- A report must be sent to the court with a recommendation for abeyance. The report must include the reason(s) for the delay or inability to complete the investigation and the period of time needed to complete the investigation.

If the petitioners cannot be contacted or located, the agency is to submit a report to the court and recommend the petition be dismissed.

If the petitioner(s) moves from Virginia before completion of the investigation, the agency requests the assistance of an out-of-state agency in completing the investigation.

10.3.5 Prepare the Report of Investigation

The format of the report must be that prescribed by the Adoptions Unit. The Report of Investigation Format and Checklist in the Forms section outlines information to be included in the report.

The report must contain a recommendation as to the action to be taken by the court.

10.3.5.1 Prepare four copies of the report

send original to the court with certificate of service showing copy of report was sent to the adoptions unit. The Certificate of Service form is in the Forms section.

send one copy to the adoptions unit with completed commissioner's confidential report (See the Forms section for the CCR).

Send one copy to the attorney. If the petitioners do not have an attorney, advise them to contact the Clerk of Court to have the

case placed on the docket for disposition. Do not send the petitioner(s) a copy of the report.

Keep a copy in agency's file until final disposition.

10.3.5.2 The agency must submit any additional information requested by the Adoptions Unit.

10.3.5.4 In those instances where the court may enter a final order, the agency shall include a statement as to the amount of the fee assessed and whether the fee has been paid. A receipt must be provided to the court by the local department of social services which completed the investigation and court report to provide proof of payment of the fee.

10.3.6 A Supplementary Report

Sometimes after the required report has been submitted, the agency receives factual information on a case that would influence the action to be taken by the court. The agency must submit a Supplementary Report when factual information is received after making the required report and no court action has been taken or the case is pending as a result of a recommendation for abeyance. The format for a Supplementary Report is in the Forms section.

10.3.7 What Must Be Done Following Final Disposition

10.3.7.1 Final disposition is the final action taken by the court in an adoption which means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents and a person(s) acquires a child other than by birth. A final order is not subject to attack for any reason after six months from the date it is entered and is final for all purposes (Section 63.2-1216).

10.3.7.2 Acknowledgment and disposition of case material

The agency must review and acknowledge

receipt of the final order of adoption or any other order of final disposition. A copy of the acknowledgment to the court should be sent to the Adoptions Unit. The agency should advise the court of any problem that could affect the legality of the adoption. The acknowledgment form is in the Forms section.

The agency must purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the Adoptions Unit for preservation (See the Forms section for "Guidelines Regarding the Preparation of Adoption Material to be forwarded to Adoption Reports for Preservation in a Non-agency Adoption).

10.3.8 Closing the Case

The case should be closed when the final order of adoption is received.

10.4 Responsibilities of the attorney

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

10.4.1 files the petition, which must be signed by the petitioner and counsel of record (Section 63.2-1201),

10.4.2 obtains required consents,

10.4.3 prepares appropriate orders,

10.4.4 informs the petitioners of the legal requirements,

10.4.5 assists the agency in obtaining necessary verifications, and

10.4.6 assists the petitioner(s) in obtaining a new birth certificate for the child.

10.5 Responsibilities of the Commissioner

The Adoptions Unit carries out the duties of the Commissioner of Social Services in adoptions. These duties include:

- 10.5.1 establishing a permanent record of all adoptions petitioned and providing post-adoption services to adult adoptees and adoptive parents seeking background information on the biological family; and
- 10.5.2 monitoring adoption cases and submitting reports to courts when necessary.

10.6 Responsibilities of the circuit court

- 10.6.1 The petition and all exhibits must be forwarded to the local director of social services which completed the home study or provided supervision. If no Virginia agency provided such services, the petition and all exhibits shall be forwarded to the local director of social services in the city or county where the adoptive family resides, or resided at the time of filing the petition, or had legal residence at the time of the filing of the petition.

- 10.6.1.1 The clerk of the circuit court where the petition is filed sends a copy of the petition, order of reference and all exhibits to the local director of the department of social services and to the Adoption Unit. The petition must be signed by the petitioner and counsel of record, if any (Section 63.2-1201).

- 10.6.1.2 The circuit court shall expeditiously consider the merits of the petition upon receipt of the report (Section 63.2-1208).

- 10.6.1.3 The court may take any action it finds appropriate (Section 63.2-1208B). The court may:

enter a final order,

deny petition,

dismiss petition,

continue proceeding, or
schedule a hearing.

10.6.2 The court may dispense with entry of the interlocutory order
when (section 63.2-1210):

10.6.2.1 the child has been legally adopted according to the
laws of a foreign country with which the United States
has diplomatic relations (section 63.2-1210.5):

if the circuit court is of the opinion that the entry
of an interlocutory order would otherwise be
proper; and

The child has been in the physical custody of
the petitioners for:

at least one year immediately prior to
the filing of the petition, and

a representative of a child-placing
agency has visited the petitioner and
child at least once in a six months
immediately preceding the filing of the
petition or during its investigation, or

the child has been in the physical
custody of the petitioners for at least six
months immediately prior to the filing of
the petition,

has been visited by a representative of a
child placing agency or the local
department of social service three times
within such six month period with no
fewer than ninety days between the first
and last visits,

and the last visit has occurred within six
months immediately prior to the filing of
the petition.

- 10.6.2.2 the child was placed into Virginia from a foreign country in accordance with §63.2-1104, and if (section 63.2-1210.6):
- The child has been in the physical custody of the petitioner for at least six months immediately prior to the filing of the petition,
- has been visited by a representative of a child placing agency or the local department of social service three times within such six month period with no fewer than ninety days between the first and last visits,
- and the last visit has occurred within six months immediately prior to the filing of the petition. The circuit court may, in cases of an international placement, omit the requirement that three visits be made within a six-month period.
- 10.6.2.3 When no action is taken by the court for at least one year from the entry of the last order, the clerk of court places the case on the docket for review by the court.
- 10.6.2.4 The clerk of the court sends to the agency and to the Adoption Unit a copy of any order entered. Upon entry of a final order or any other final disposition, the clerk forwards all reports submitted with the final order to the Adoption Unit for preservation.
- 10.6.2.5 When services have been provided by a local department of social services, the court shall assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court shall not enter a final order of adoption until proof of payment of fees has been received (Code Section 63.2-1248).
- 10.6.2.6 The court may not enter a final order of adoption without the information needed to complete a Report of Adoption (VS-21), unless the court determines this information is unavailable or unnecessary. The Report of Adoption (VS-

21) provides information that is needed to locate and identify the original birth certificate and to establish a new birth certificate.

- 10.6.2.7 After the entry of a final order, the clerk of court sends to the state department of health, bureau of vital records and health statistics a completed report of adoption, VS-21, and a completed application for a certified copy of a birth record, VS-6, with a check for the required fee (Code Section 32.1-262).

11. Virginia Putative Father Registry

11.1 Virginia Putative Father Registry

The Virginia Putative Father Registry is a confidential database of registered putative fathers. The purpose of The Virginia Putative Father Registry is to protect the rights of putative fathers by allowing them to be notified of termination of their parental rights and/or adoption proceeding regarding a child that he may have fathered.

About the Virginia Putative Father Registry:

- The 2006 General Assembly passed into law Section 63.2-1249, which established The Virginia Putative Father Registry in the Virginia Department of Social Services.
- The Virginia Putative Father Registry provides a mechanism to identify putative fathers who desire to be notified of termination of parental rights and/or adoption proceeding regarding a child they may have fathered.
- If the conception or birth of a child occurred in another state and that state has a Putative Father Registry, the male should register in that state in addition to registering with the Virginia Putative Father Registry to protect his rights.
- The Virginia Putative Father Registry is not intended to start a paternity proceeding. However, the registration may be used to help establish paternity.

11.2 Who May Register

Any putative father is required to register if he would like to receive notice of an adoption proceeding or termination of parental rights for a child he may have fathered.

A putative father is the alleged father of a child. A putative father must register with the Virginia Putative Father Registry if he wants to protect his rights to receive notice of termination of parental rights and/or adoption proceeding regarding a child he may have fathered.

Any male who desires to be notified of an adoption proceeding of, or termination of parental rights regarding, a child that he may have fathered shall register with The Virginia Putative Father Registry. This may include a male who currently lives in Virginia or who visited Virginia at the time of conception of the child or

birth of the child.

11.3 Who Does Not Have To Register

A male who has an established or is establishing a legal relationship with his child does not have to register for protection of his rights and to receive notice of an adoption proceeding or termination of parental rights.

As indicated in section 1.A of the guidance section for Chapter D, the following are legal fathers:

- An acknowledged father is a male who has established, by voluntary written statement, a relationship between himself and the mother of the child that he is the father of the child. The statement is made under oath and in writing agreeing to the paternity.
- An adjudicated father is a male with a judgment or court order establishing the paternity of a child.
- A presumed father is a male married to the mother of the child or was married to the mother of the child and the child was born within 300 days after the termination of the marriage.

Any male that begins paternity proceedings before a petition is filed for adoption or termination of parental rights is not required to register with the Virginia Putative Father Registry.

Section 63.2-1249 A putative father registry shall be established in the Department of Social Services.

Section 63.2-1250A man who desires to be notified of a proceeding for adoption of, or the termination of parental rights regarding a child he may have fathered shall register with the putative father registry before the birth of the child or within 10 days after the birth....

Section 63.2-1250.B, A man will not prejudice any rights by failing to register if:

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

2. The man commences a proceeding to adjudicate his paternity before a petition to

accept consent or waive adoption is filed in juvenile and domestic relations court, or a petition for adoption or a petition for the termination of his parental rights is filed with the court.

11.4 How to Register

A male wishing to register must complete a Virginia Putative Father Registry registration form.

A registration form can be obtained at any of the local departments of social services, by downloading an application from the Virginia Putative Father Registry web site at www.VAPutativeFather.com, or by contacting 1-877-IF-DADDY (1-877-433-2339) to request that an application be mailed to them.

The following information must be provided by the male on the registration form:

- his name, date of birth, social security number;
- his driver's license number and state of issuance;
- his home address, telephone number, employer;
- the name, date of birth, ethnicity, address and telephone number of the putative mother, if known;
- state of conception (i.e. Maryland, North Carolina, California, etc.);
- place and date of birth of the child, if known; and,
- name and gender of the child, if known.

Other identifying information about the father, putative mother or child may be requested.

The completed form is signed and should be mailed to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219-3301

**Effective October 27, 2009 send to:
Virginia Putative Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901**

Once registered with the Virginia Putative Father Registry, a male is known as a registrant.

11.5 Timely Registration

A male must register in a timely manner in order to protect his rights. A registration is considered timely when it is received:

- 1) before the child is born; or
- 2) within 10 calendar days after the child is born, or
- 3) within 10 days from the mailing of notice from the child placing agency or adoptive parent of an adoptive plan for a child; or
- 4) within 10 days upon the discovery of fraud by the mother. Fraud is considered the following:
 - a) that a pregnancy was terminated or the mother miscarried when actually the baby was born, or
 - b) the male was told the child had died when actually the baby is alive.

The child-placing agency or adoptive parent is required to give notice of the adoptive plan to the putative father. Typically an agency would provide notice in an agency adoption and an adoptive parent would provide notice in a non-agency placement.

Section 63.2-1202.d.Verification of compliance with the notice provisions of the Putative Father Registry shall be provided to the court.

All registrations received by the Department will be entered into the Virginia Putative Father Registry.

Section 63.2-1250.A ...A man who desires to be notified of a proceeding for adoption of, or termination of parental rights regarding a child that he may have fathered shall register with the Putative Father Registry before the birth of the child or within 10 days

after the birth.

Section 63.2-1250.C ...Upon the discovery of the fraud the man shall register with the Putative Father Registry within 10 days.

Section 63.2-1250.ELack of knowledge of the pregnancy does not excuse failure to timely register. **In the event that the identity and whereabouts of the birth father are reasonably ascertainable, written notice of an adoption plan and the availability of registration with the Putative Father Registry shall be provided by certified mailing to the man's last known address.** The man shall have no more than 10 days from the date of such mailing to register. The mailing may be done either prior to or after the birth of the child.

- 11.6 If a male would like to receive confirmation that he has been registered, he may contact the Virginia Putative Father Registry at 1-877-IF-DADDY.

11.7 Updating Registration

The registrant shall promptly notify The Virginia Putative Father Registry of any changes including but not limited to change of address.

The registrant can update his registration by completing another Virginia Putative Father Registry registration form. The registrant indicates that he is updating his registration by marking the box on the registration form with an X or check mark stating it is an updated registration. The registrant updates the information that has changed, signs the registration form and mails the form to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219-3301

Effective October 27, 2009 send to:
Virginia Putative Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

11.8 Rescinding or Withdrawing Registration

The registrant has a right to rescind his registration at any time.

To rescind a registration, the registrant must complete another Virginia Putative

Father Registry registration form.

The registrant marks the box on the registration form indicating that the registration is being withdrawn for a specific registration.

The registrant must rescind a registration form for each registration with a different name of a putative mother or child.

The registrant must sign the form and mailed it to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219-3301

Effective October 27, 2009 send to:
Virginia Putative Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

11.9 Access to The Virginia Putative Father Registry

- The Virginia Putative Father Registry is confidential and exempt from the Virginia Freedom of Information Act.

Section 63.2-1251.C. Information contained in the registry shall be exempt from disclosure under the Virginia Freedom of Information Act (§2.2-3700 et seq.).

- The information in the database shall only be released to the authorized entities:
 - The court or a person designated by the court
 - A designated person must submit documentation from a court signed by a judge indicating that they have been designated by the court
 - The mother of the child who is the subject of registration
 - The mother must submit proof of being the mother of the child by providing a copy of the birth certificate and

notice from The Virginia Putative Father Registry of being listed in it

- A licensed child-placing agency
- A support enforcement agency
- An agency authorized by law to receive such information
- 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
 - A party of an adoption proceeding may be a petitioner in a termination of parental rights or adoption proceedings such as a local department of social services or an adoptive parent. The foster parent who is not adopting is not party to the termination of parental rights or adoption proceeding for the purposes of the registry
- A putative father registry in another state

11.10 Search of The Virginia Putative Father Registry:

A search of the Virginia Putative Father Registry shall be conducted for all adoptions except for children who have been adopted according to the laws of a foreign country or if the child was placed in Virginia from a foreign country in accordance with §63.2-1104 for the purpose of adoption.

Any petitioner, who files a petition for the termination of parental rights or for an adoption proceeding, shall request a search of the Virginia Putative Father Registry for any putative father.

A petitioner who requests a search of the Virginia Putative Father Registry is called a requestor. The requestor is an authorized person, agency or organization listed in section 12.9 above.

The Virginia Putative Father Registry only conducts searches of the Virginia Putative Father Registry. If the birth and/or conception occurred in another state, the requester must request a search of the Putative Father Registry in the other state. Staff at the Registry are available to assist in obtaining contact information for a Putative Father Registry in another state by calling 1-877-IF-DADDY (1-877-433-2339).

The requestor completes the Request to Search Form. The Request to Search Form (032-02-0501-00-eng) can be obtained at a local department of social services, may

be downloaded at the Virginia Putative Father Registry web site at www.VAPutativeFather.com or by calling 1-877-IF-DADDY to request a form be mailed or faxed.

The Request to Search form must be notarized and mail to:

Virginia Putative Father Registry
Virginia Department of Social Services
7 North Eighth Street
Richmond, Virginia 23219-3301.

Effective October 27, 2009 mail to:
Virginia Putative Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

The Virginia Putative Father Registry must request documentation to verify authorization to release information. If you have any questions regarding your documentation, please call the Virginia Putative Father Registry at 1-877-IF-DADDY (1-877-433-2339).

Upon satisfaction of documentation requirements, the Department will conduct a search of the Virginia Putative Father Registry, furnish a certificate that a search was conducted and include an attachment of any findings of the search to the certificate.

The Department will furnish within four business days from receipt of a request from a court, agency or individual:

- 1) a signed certificate stating that a search was completed; and
- 2) the findings of the search.

The Department will mail the certificate using the United States mail or at the requestor's expense have the certificates, along with the findings of the search, delivered by overnight mail, in person, by messenger, by facsimile or other electronic communication.

The certificate of search and findings shall be filed with the court before an adoption proceeding can conclude.

A copy of the certificate of search shall be maintained in the case record of the child-placing agency. The social worker shall file a copy of the certificate of search and the findings with the adoption record.

If a search of the registry does not identify a match to the child who is the subject of the search, the social worker should gather and explore other information to locate and identify the name of the father.

11.11 Compliance with Notice Provisions

It is the responsibility of the agency to provide evidence that the agency complied with the following provisions of the Virginia Putative Father Registry:

- notice to a known putative father, and/or
- notice to the putative father regarding his rights.

The evidence must be submitted to the courts when filing the petition that notice was sent to the putative father.

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The Virginia Putative Father Registry Request to Search Form

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1111. FORMS AND INSTRUCTIONS

The following forms and formats are attached.

Format for Identifying Information In Parental Placements

Format for Waive of disclosure of Full names and addresses

c. Formats used in non-agency adoptions and court ordered searches

Report of Investigation Format in a Stepparent Adoption

Report of Investigation Format in an Adult Adoption

Checklist for Report of Investigation

Home Study Format in a Parental Placement and Certification Format

Report of Suspected Violation Format

Report of Visitation Format

Supplementary Report of Investigation (or Visitation) Format

Report to Court Re: Petition for Disclosure

d. Guide material

Guidelines Regarding the Preparation of Adoption Material to be forwarded to the Adoption Reports Unit for Preservation in a Non-agency Adoption.

Sample forms for use in custody investigations.

SUGGESTED FORMAT FOR IDENTIFYING INFORMATION FORM

PURPOSE: The forms entitled, "Identifying Information Form" are to be used for the exchange of identifying and background information between the birth and adoptive parents in parental placement adoptions as required by the Parental Placement law of Virginia (Chapter 12, Article.3)

USE: The forms may be filled out during the simultaneous meeting between the birth parent(s), the adoptive parents and the agency worker. In those close relative adoptions (grandparent, great-grandparent, adult aunt or uncle, adult brother or sister) where the simultaneous meeting is not required, the forms must still be filled out and shared with each party.

A copy of the completed forms is kept in the agency's file. Upon request, the agency is required to make available at any time a copy of the document to any party who signed the document. Another copy of the forms should be sent to the Adoptions Unit upon finalization of the adoption.

COPIES: Except for the initial form which is filled out, dated and signed by the birth parent(s), the adoptive parents and the agency worker, all other forms which pertain to the birth parents are separate forms and a copy must be filled out by the birth mother, birth father, and legal father (if different from the birth father). If the mother was married at the time of the child's conception or birth, but her husband is not the child's birth father, he would be considered the legal father for the purpose of these forms. These forms are subtitled "Birth Parent Information Sheet (Part 1, Part 2 and Part 3)" and "Medical Information on Birth Family (Part 1, Part 2 and Part 3)."

INSTRUCTIONS FOR COMPLETING THE FORM: The birth and adoptive parents should be asked to fill out the appropriate forms with the information requested. In order to insure that forms are legible, it should be requested that information be typed or printed. The forms should then be shared between the birth and adoptive parents.

The birth and adoptive parents must sign and date the initial form. The agency worker should also sign and date the initial form where indicated and list the name of the agency.

In those instances where the child is not yet born when the birth and adoptive parents complete the forms, the agency worker will need to fill in the child's original name and birth date later on. This information is very important for filing purposes.

**SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM****Please type or print**ADOPTEE'S ORIGINAL NAME AND BIRTH
DATE _____

This form is to comply with Virginia Law Chapter 10.2, Article 3 and Virginia Department of Social Services Regulations (VR 615-43-3 Part II).

BIRTH MOTHERBIRTH FATHERLEGAL FATHER*(If different
from birth father)_____
(Name) (Name) (Name)_____
(Address) (Address) (Address)_____
_() () ()
(Telephone) (Telephone) (Telephone)_____
(Signature) (Signature) (Signature)_____
(Date) (Date) (Date)

ADOPTIVE PARENT/S

(Name)

(Name)

(Address)

()

(Telephone)

(Signature)

(Date)

(Signature)

(Date)

AGENCY REPRESENTATIVE_____

DATE_____

NAME OF AGENCY_____

Additional information attached.

*If the mother was married at the time of the child's conception or birth, but the husband was not the child's birth father, he would still be considered the legal father.

SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 1)

(This form is for purposes of providing background information for your child and for exchange of information as required by the Parental Placement Law of Virginia. It will be shared with the adoptive parents and part of it will be used for the report to court.)

RELATIONSHIP OF PARENT TO ADOPTEE:

() BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER (if different
from birth father)

Name: _____

Address: _____

Telephone number: _____ Social Security number: _____

Date of birth: _____ Place of birth: _____

Height: _____ Weight: _____

Eye color: _____ Hair color: _____

Education: _____

Employment: _____

Religion: _____ Ancestry: _____

Interests and talents: _____

Other information if considered pertinent: _____

SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 2)

CHILDREN OF () BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER
(if different from birth father)

Name of parent: _____

The parent should fill out a separate form for each of their children including the adoptee if born:

Full name of child and sex: _____

Child's date and place of birth: _____

Health of child to include birth and developmental information: _____

Physical description of child to include eye and hair color, approximate height and weight: _____

Personality of child: _____

Other pertinent information on child: _____

SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

BIRTH PARENT INFORMATION SHEET (PART 3)

BIRTH RELATIVES OF () BIRTH MOTHER () BIRTH FATHER () LEGAL FATHER
(if different from birth father)

Name of parent: _____

Parent's mother's name: _____ Parent's father's name: _____

Parent's mother's birth date: _____ Parent's father's birth date: _____

Parent's mother's education: _____ Parent's father's education: _____

Parent's mother's employment: _____ Parent's father's employment: _____

Parent's mother's health: _____ Parent's father's health: _____

Parent's sisters and brothers
names and ages:

SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

MEDICAL INFORMATION ON BIRTH FAMILY (PART 1)

RELATIONSHIP OF PARENT TO ADOPTEE: () BIRTH MOTHER () BIRTH FATHER
() LEGAL FATHER (if different from birth father)

Name of parent: _____

List any drugs used: _____

If birth mother, list any drugs used during pregnancy: _____

Have you been tested for AIDS? _____ Results of test: _____

The following two pages are for listing medical information on your family. Please check (x) any of the blocks that are applicable. If any blocks are checked, please give specific details on this page including description of illness (e.g. type of mental/emotional problems, metabolic disorder, eye problems, or blood diseases), age of onset of the illness and any deaths that resulted.

SUGGESTED FORMAT FOR
IDENTIFYING INFORMATION FORM (Con't)

Please type or print

ADOPTEE'S ORIGINAL NAME AND BIRTH DATE: _____

ADOPTIVE PARENT INFORMATION SHEET

Date: _____

Names: _____

Date of birth: _____

Address: _____

City/Zip: _____

Phone number: _____

List mental and physical health
issues: _____

Education: _____

Employment: _____

Interests: _____

Religion: _____

Other children in the
family: _____

Hopes and expectations for
adoptee: _____

SUGGESTED FORMAT FOR WAIVER OF FULL NAME & ADDRESS FORM

PURPOSE: The forms entitled, "Waiver of Identifying Information Form" are to be used to acknowledge that the birth parents and the adoptive parents agree to waive the disclosure of full names and addresses. The birth parent is to complete one form which is entitled Waiver of Full Names & Address Form (Birth Parent). The adoptive parent is to complete a separate form which is entitled Waiver of Full Names & Address Form (Adoptive Parent).

USE: The forms must be completed when the birth parents and adoptive parents elected to waive disclosure of full names and addresses.

A copy of the completed forms is kept in the agency's file. Upon request, the agency is required to make available at any time a copy of the document to any party who signed the document. Another copy of the forms should be sent to the Adoptions Unit upon finalization of the adoption.

COPIES: Except for the initial form which is filled out, dated and signed by the birth parent(s), the adoptive parents and the agency worker, all other forms which pertain to the birth parents are separate forms and a copy must be filled out by the birth mother, birth father, and legal father (if different from the birth father). If the mother was married at the time of the child's conception or birth, but her husband is not the child's birth father, he would be considered the legal father for the purpose of these forms.

INSTRUCTIONS FOR COMPLETING THE FORM: The birth and adoptive parents should be asked to complete the form if the birth parent and adoptive parent agree to waive disclosure of full names and addresses. In order to insure that forms are legible, it should be requested that information be typed or printed. The forms should then be shared between the birth and adoptive parents.

The birth and adoptive parents must sign and date the form separately. Each parent should complete their respective form. The agency worker should also sign and date the initial form where indicated and list the name of the agency.

In those instances where the child is not yet born when the birth and adoptive parents complete the forms, the agency worker will need to fill in the child's original name and birth date later on. This information is very important for filing purposes.

SUGGESTED FORMAT FOR WAIVER OF FULL NAME & ADDRESS FORM
(Birth Parent)

I, _____, birth parent of said child _____

agree to waive the disclosure of full names and address. Section 63.2-1232.3 *Code of Virginia*.

I, _____, birth parent of said child _____

agree, to waive the disclosure of full names and address. Section 63.2-1232.3 *Code of Virginia*.

Singed:

Birth Parent

Date

Birth Parent

Date

Witness

Date

SUGGESTED FORMAT FOR WAIVER OF FULL NAME & ADDRESS FORM
(Adoptive Parent)

I, _____, adoptive parent of said of said child _____

agree to waive the disclosure of full names and address. Section 63.2-1232.3 *Code of Virginia*.

I, _____, adoptive parent of said of said child _____

agree to waive the disclosure of full names and address. Section 63.2-1232.3 *Code of Virginia*.

Singed:

Adoptive Parent

Date

Adoptive Parent

Date

Witness

Date

REPORT OF INVESTIGATION
FORMAT IN A STEPPARENT ADOPTION

NOTE: The Commissioner's Confidential Report form on page 10.3 is to be submitted only to the Adoptions Unit with one copy of the report.

VIRGINIA

In The Circuit Court of (city and county)

REPORT OF INVESTIGATION

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

Chancery No. (if applicable)
(current date)In Re: Adoption of _____
(child's name)Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)

To the Honorable (Judge's name), Judge of the Circuit Court of the (city/county):

The (name of agency) having received an order of reference to make an investigation in the above-styled case, pursuant to Section 63.1-219.35, Code of Virginia, makes the following report:

The child to be adopted is a (race and sex) born (date of birth) in (place of birth) (state whether birth information has been verified and show birth registration number, if available). He/she is identified as (child's name) on his/her birth

certificate. He/she is (state the relationship of the child to the petitioners).

Suitability of the petitioners to adopt:

Ages, races, educational background, date of marriage, (state whether verified), sex and ages of children.

Former marriages, place, date, method of termination (state whether verified), ages and whereabouts of children of former marriages.

Report of Investigation Format (Continued)

Employment of the petitioners, all income, savings, investments, insurance, debts, including mortgage and time payments, and real estate owned.

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities, and physical and mental health.

Condition of the Child:

Name, age, school grade and achievement, if applicable, and health condition. Physical, mental and emotional development. Relationship with petitioners, other members of the household, peers and adults.

Separation from natural parents:

Circumstances of the birth, reason for separation, way in which separation occurred.

Physical description of all parents, ages, races, verified marital status of the mother at the time of the child's conception and birth, educational backgrounds, employment, physical and mental health history, and personality. Names of the natural parents not to be used.

Attitudes toward adoption.

Consent:

State who consents, by what authority and in what manner.

Circumstances of the placement:

State when and how the child came to live with both petitioners.

Evaluate the care the child receives, adjustment in the home, the petitioners' adjustment to the child and the suitability of the adoption. If the adoption is not in the child's best interest, the recommendation should include a statement regarding custody and/or visitation rights, if applicable.

Agency's Recommendation:

Suggested wording for final order: The (name of agency) recommends that the final order of adoption be entered, omitting the interlocutory order and period of probation, as provided by Section 63.2-1210, Code of Virginia.

Suggested wording for amount of fee assessed: The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

(Superintendent/Director)

(name of agency)

OR

John Doe
Superintendent/Director

By

(name and title of person signing
report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.
--

REPORT OF INVESTIGATION
FORMAT IN AN ADULT ADOPTION

NOTE: The Commissioner's Confidential Report form on page 10.3 is to be submitted only to the Adoptions Unit with one copy of the report.

VIRGINIA

In The Circuit Court of (city and county)

REPORT OF INVESTIGATION

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

Chancery No. (if applicable)

(current date)

In Re: Adoption of _____
(adoptee's name)Also Known As _____
(show all names by which adoptee is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)

To the Honorable (Judge's name), Judge of the Circuit Court of the (city/county):

The (name of agency) having received an order of reference to make an investigation in the above styled case, pursuant to Section 63.1-219.50 Code of Virginia, makes the following report:

The subject of the adoption petition is a (race and sex) born (date of birth) in (place of

birth) (state whether birth information has been verified and show birth registration number, if available). He/she is identified as (adoptee's name) on his/her birth certificate. He/she is not related to the petitioners by blood or marriage (or state the relationship of the adoptee to the petitioners).

Report of Investigation Format (Continued)

Suitability of the petitioners to adopt:

Ages, races, educational background, date of marriage, (state whether verified), sex and ages of children.

Former marriages, place, date, method of termination (state whether verified), ages and whereabouts of children of former marriages.

Employment of the petitioners, all income, savings, investments, insurance, debts, including mortgage and time payments, and real estate owned.

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities, and physical and mental health. Medicals are required in non-relative placements.

Petitioners as observed by references.

Condition of the adoptee:

Name, age, education, employment, marital status, hobbies, health condition, confirmed by medical statement in non-relative placements. Physical, mental and emotional development. Relationship with petitioners, other members of the household, and peers.

The adoptee's reason for wanting the adoption to occur.

Separation from natural parents:

Physical description of all parents, ages, races, educational backgrounds, employment, physical and mental health history, and personality. Names of the natural parents not to

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be used.

Consent:

State who consents, by what authority and in what manner. Only the consent of the adoptee is required in an adult adoption.

Report of Investigation Format (Continued)

Circumstances of the placement:

State when and how the adoptee came to live in the home, if applicable. State any fees paid to person(s) or agencies that assisted in the placement.

Evaluate the suitability of the adoption.

Agency's Recommendation:

Suggested wording for final order: The (name of agency) recommends that the final order of adoption be entered in accordance with Code Section 63.2-1213.

Suggested wording for amount of fee assessed: The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

(Superintendent/Director)

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person signing)

report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.
--

CHECKLIST FOR REPORT OF INVESTIGATION

- (1) Verification of the child's/adoptee's name, date and place of birth with birth registration number
- (2) Petitioners:
 - (a) race
 - (b) age
 - (c) verification of marriage
 - (d) verification of termination of marriage(s)
 - (e) children
 - (f) education
 - (g) employment
 - (h) physical and mental health (medicals required in non-relative placement)
 - (i) religion
 - (j) references (not specifically required in stepparent adoptions)
 - (k) finances:
 - 1. income
 - 2. savings and investments
 - 3. debts
 - 4. insurance
 - (l) home:
 - 1. size
 - 2. location
 - 3. standards
 - 4. occupants
 - (m) personalities
 - (n) marital relationship
- (3) Child/Adoptee:
 - (a) birth history
 - (b) development
 - (c) health (medical required in non-relative placement)
 - (d) personality
 - (e) education, if applicable
 - (f) family relationships
 - (g) employment, if applicable
 - (h) marital status in an adult adoption

- (4) Natural parents:
- (a) verification of the mother's marital status at time of the child's conception and birth **(not required in an adult adoption)**
 - (b) separation from and planning for the child
 - (c) attitude toward adoption **(not required in an adult adoption)**
 - (d) age and race
 - (e) education
 - (f) employment
 - (g) physical and mental history, including current health
 - (h) physical description
 - (i) personality
 - (j) relationship assumed by father:
 - 1. acknowledgment of paternity
 - 2. financial support and visitation
 - (k) relationship between parents
 - (l) family relationships
- (5) Consent:
- (a) are the child/adoptee and the petitioner(s) properly identified
 - (b) who was given notice and the method of notice (not applicable in an adult adoption)
 - (c) date and manner consent was given
- (6) Placement:
- (a) how did the petitioners learn about the child/adoptee
 - (b) who made or assisted in the placement
 - (c) date of the placement
 - (d) were the petitioners given guardianship (not applicable in stepparent and adult adoptions)
 - (e) fees paid regarding the placement
- (7) Recommendation
- (a) agency's recommendation
 - (b) if a final order is recommended and services were provided by a local department of social services, the agency must state the amount of the fee assessed, if any, AND PROVIDE THE COURT WITH A RECEIPT TO SHOW PROOF OF PAYMENT OF THE FEE.

HOME STUDY FORMAT
IN A PARENTAL PLACEMENT ADOPTION

VIRGINIA

Home Study Report
By (name of agency)

In The Juvenile and Domestic Relations Court of (city and county)

In Re:

(name of family)

(street address)

(city or county, state and zip)

(telephone number)

To the Honorable (Judge's name), Judge of the Juvenile and Domestic Relations Court
of (city/county):

The (name of agency) having been requested to complete a home study on the above-
named family, pursuant to Chapter 12 Article 3 makes the following report:

The child to be adopted is a (race and sex) born (date of birth) in (place of birth) (state
whether birth information has been verified. If verified by birth certificate, include birth
certificate number). He/she is identified as (child's name) on the birth certificate.
He/she is not related to the petitioners by blood or marriage (or state the relationship of
the child to the petitioners).

Suitability of the petitioners to adopt:

Ages, races, educational background, date of marriage (state whether verified), sex and ages of children.

Former marriages, place, date, method of termination (state whether verified), ages and whereabouts of children of former marriages.

Employment of the petitioners, all income, savings, investments, insurance, debts, including mortgage and time payments, and real estate owned.

Description of the home and community, members of the household, relationships, and housekeeping standards.

Religion of the petitioners, personality, community activities. Statement about whether the petitioners are in satisfactory physical and mental health to raise a child.

Petitioners as observed by references. Findings of the criminal record check and child protective services check.

Condition of the child

Name, age, school grade and achievement, if applicable, and health condition confirmed by medical statement. Physical, mental and emotional development. Birth history. Relationship with petitioners, other members of the household, peers and adults.

Separation from birth parents

Circumstances of the birth, reason for separation, way in which separation occurred and attitude of the birth parents toward the adoption.

Physical description of all parents, ages, races, verified marital status of the mother at the time of the child's conception and birth, educational backgrounds, employment, physical and mental health, personality.

Name and address of the birth parent(s).

Circumstances of the placement

State when and how the child came to live in the home. If applicable, include a statement as to whether the requirements of law related to the Interstate Compact on the Placement of Children have been met.

Evaluate, if appropriate, the care the child receives, adjustment in the home, the petitioners' adjustment to the child and the suitability of the adoption.

Report financial arrangements, exchange of property among the parties, and the fees paid or charged for services related to the placement or adoption of the child. Include names and addresses.

Home Study Format
In A Parental Placement Adoption (Con't)

Agency's Recommendation

The (name of agency) recommends that this placement is/is not a suitable placement for the child.

If the recommendation is against the placement, the agency must specify why the placement is contrary to the best interest of the child.

The (name of agency) recommends that the petitioners be assessed a fee in the amount of \$_____, or recommends that no fee be assessed to the petitioners.

Respectfully submitted,

(Superintendent/Director)

Prepared By _____
(Name of worker)

NOTE: A COPY OF THE CERTIFICATION FORM ON PAGE 11.23 MUST BE SUBMITTED TO THE COURT WITH THE HOME STUDY REPORT.

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CERTIFICATIONS

I certify that:

- ☐ the birth parent(s) are aware of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families.
- ☐ the prospective adoptive parents have been counseled with regard to alternatives to adoption, adoption procedures, including the need to address the parental rights of birth parents, the procedures for terminating such rights, and opportunities for adoption of other children, that the prospective adoptive parents' decision appears to be informed and uncoerced, and that the adoptive parents have stated that they intend to file an adoptive petition and proceed towards a final order of adoption.
- ☐ during the course of the home study, the agency worker met with the birth parent(s) and the adoptive parents simultaneously; or
- ☐ the simultaneous meeting between the agency worker, the birth parent(s) and adoptive parents did not occur because the child was being adopted by his/her grandparents, adult brother or sister or adult uncle or aunt.
- ☐ identifying information including but not limited to full names, addresses, physical, mental, social and psychological information was exchanged between the birth parent(s) and adoptive parents.

(Name of Worker)_____

(Worker's Title)_____

(Agency)_____

(Date)_____

STATE OF VIRGINIA

COUNTY/CITY OF _____, to wit:

I, _____, a Notary Public in and for the
County/City aforesaid, in the State of Virginia, do hereby certify that

_____ whose name is signed to the foregoing

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Certifications has acknowledged the same before me in my County/City aforesaid.

My Commission expires _____

Given under my hand this _____ day of _____, 20____

(Notary Public)

REPORT OF SUSPECTED VIOLATIONS

(Current Date)

Agency Case No.

Adoption of: (name of child)

By: (name of prospective adoptive family)

Address: (street address and city or county)

Name of Birth Mother:

Address:

Date of Placement:

Reported Violator(s):

Profession, if appropriate:

Address (or addresses):

Provide description of violation. The violation could be for exchanging money, property, or anything of value or it could be for engaging in the activities of a licensed child-placing agency without a license to do so.

When the suspected violation relates to the exchange of money, property, or anything of value, provide a detailed listing of the information. Information provided should include a description of what the fee was for and the amount paid.

Please note that this report is to be sent to the Adoptions Unit. When the home study was requested by the court, this report is sent to the Adoptions Unit at the time the home study report is submitted to juvenile court or, if information is learned at a later time, with the Report of Visitation that is submitted to the circuit court.

When the home study was requested by the birth or adoptive parents and arrangements have been made between those parties for the placement of the child, this report is sent to the Adoptions Unit when the home study report is sent to the adoptive parents' attorney.

NOTE: In a parental placement adoption, the Commissioner's Confidential Report form should be submitted to the Adoptions Unit with one copy of the Report of Visitation if the form has not already been submitted. The Commissioner's Confidential Report form is to be submitted only to the Adoptions Unit.

REPORT OF VISITATION FORMAT

VIRGINIA

REPORT OF VISITATION

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

In The Circuit Court of (city/county)

Chancery No. (if applicable)

(current date)

In Re: Adoption of _____
(child's name)Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)And _____
(female petitioner's name)_____
(street address)_____
(specify city or county)

To the Honorable (Judge's name), Judge of the Circuit Court of the (city/county):

An interlocutory order having been entered on (date), the (name of agency) herewith makes the following Report of Visitation, pursuant to Section 63.2-1212 Code of Virginia:

Identify the child, stating race, sex, date and place of birth, whether verified and birth registration number, name as it appears on the birth certificate, and relationship to petitioners.

Statement regarding the visits, giving the dates of the visits. State where the visits occurred and who was seen.

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Paragraph reporting any changes in the home situation.

Paragraph summarizing the child's present condition and development since the initial investigation.

Report of Visitation Format (Continued)

Summary of contacts the natural family may have had with the child, petitioners or agency.

In a parental placement adoption, include any additional information obtained that pertains to the circumstances of the placement. Such information would include financial arrangements, exchange of property among the parties, and the fees paid or charged for services or related to the placement or adoption of the child.

Evaluation of the adoption and a statement concerning the court action which would appear to be in the child's best interest. The fee assessed to the petitioner is \$ _____. If the report is submitted before the end of the probationary period, a statement should indicate the action to be taken at the conclusion of the probationary period and the 21 days allowed for the Commissioner's review of the report.

Respectfully submitted,

Superintendent/Director

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person signing
report)
Prepared by: (caseworker's name)

[NOTE: Please note that formal headings are not used in the body of the report and]

all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.

SUPPLEMENTARY REPORT OF INVESTIGATION
(OR VISITATION) FORMAT

VIRGINIA

In The Circuit Court of (city/county)

SUPPLEMENTARY REPORT OF
INVESTIGATION (OR VISITATION)

BY (name of agency)

Agency Case No.

Virginia Adoption Case No.

Chancery No. (if applicable)

(current date)

In Re: Adoption of _____
(child's name)

Also Known As _____
(show all names by which child is known)

To Be Named _____

By _____
(male petitioner's name)

And _____
(female petitioner's name)

(street address)

(specify city or county)

To the Honorable (Judge's name), Judge of the Circuit Court of the
(city/county):

The (name of agency) having submitted a Report of Investigation (or
Visitation) on (date) makes the following Supplementary Report:

Optional Paragraph: The child to be adopted is a (race and sex)
born (date of birth) in (place of birth) (state whether birth information has been verified
and show birth registration number, if
available). He/she is identified as (child's name) on his/her birth

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certificate. He/she is not related to the petitioners by blood or marriage (or state the relationship of the child to the petitioners).

Supplementary Report of Investigation (or Visitation) (Continued)

Text: Include additional information. Formal headings are not used in the body of the report.

Agency's Recommendation: If there is no change, repeat the recommendation made in the prior report. Include the amount of the fee assessed.

Respectfully submitted,

Superintendent/Director

(name of agency)

OR

John Doe
Superintendent/Director

By _____
(name and title of person
signing report)

Prepared by: (caseworker's name)

NOTE: Please note that all copies of the report are to be signed by the Superintendent/Director or designated person as shown above.
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SAMPLE FORMAT FOR REPORT
RE: APPLICATION FOR DISCLOSURE

REPORT OF INQUIRIES

BY:
Name of Agency
DATE:By: _____
Name of Applicant

Re: Virginia Adoption Case No. _____

In Chancery No. _____
(If applicable)

The (name of agency) having received a Letter of Appointment to attempt to locate and advise the (person(s) to be located) of the application for disclosure, pursuant to Chapter 12 Article 6, of the Code of Virginia, makes the following report:

In the first paragraph, explain in detail (without disclosing identifying information on the person(s) to be located) what efforts were made to comply with the court order. Resources used to locate the person(s) named in the order should be fully documented, especially in those cases where agency efforts were unsuccessful.

Explain findings. If the person(s) are located, include updated non-identifying information about them. Indicate their attitude towards having their identity disclosed and/or being contacted by the petitioner.

Agency's recommendation: State the action on the application felt to be appropriate according to the request and findings. A denial of the application for disclosure would be indicated in those cases where the person(s) sought could not be located, were deceased, or were opposed to having their identity disclosed. If the agency recommends that identifying information be disclosed, the agency may wish to offer its services as an intermediary or suggest some other agency or person be appointed. State the amount of the fee assessed.

Respectfully submitted,

(Name and Title)
Case Worker who prepared report

GUIDELINES REGARDING THE PREPARATION OF ADOPTION MATERIAL
TO BE FORWARDED TO THE ADOPTIONS UNIT FOR PRESERVATION
IN A NON-AGENCY ADOPTION

The material to be sent for preservation is to include data and documents pertaining to the child, the natural parents and relatives, and the adoptive parents. The material must be purged of all duplicate and non-pertinent information. The originals of all material are to be sent to the Adoptions Unit since copies do not microfilm well.

HOW TO SUBMIT MATERIAL TO THE ADOPTIONS UNIT FOR PRESERVATION

Case material should be prepared for microfilming and forwarded to the Adoptions Unit within thirty (30) days after receipt of the final order if the material has not already been sent. All pertinent material can be sent along with the court report rather than after finalization. All material sent to the Adoptions Unit after the finalization of the adoption should be placed in folders and the tab labeled with the Virginia Adoption Case Number.

All names by which the child may have been known should be shown on the front of the folder. These names would include the child's original name, adoptive name, agency code name, and any other name by which the child has been known.

WHAT TO FORWARD:

1. All medical and psychological reports;
2. All verifications of births, deaths, divorces, and marriages;
3. Original letters of reference;
4. Copies of letters to legal/natural parents and the envelopes, if returned by the post office;
5. Original letters from legal/natural parents;
6. Background summaries and reports to Juvenile and Domestic Relations Courts;
7. All legal documents concerning the child's custody;
8. Case narrative material (See Number 3 under "What to Purge").

9. In a parental placement adoption, send a copy of the prescribed forms for sharing identifying and background information between the birth parent(s) and adoptive parents. Each of these forms is entitled "Identifying Information Form." another copy of these forms should be retained by the agency (see section of these guidelines entitled "material to be retained by the agency").

WHAT TO PURGE:

1. Miscellaneous correspondence, letters, greeting cards, acknowledgments and requests for status of reports;
2. Duplicates and extra copies of material. These could be copies of material which the agency knows that the Adoption Reports Unit already has such as the Report of Investigation, Report of Visitation, adoption petition, Certificate of Service and order of reference;
3. Case narrative that does not contain specific factual information relative to the child's background;
4. Pictures, baby's hospital bracelet;
5. Service application forms.

MATERIAL TO BE RETAINED BY THE AGENCY:

In a parental placement adoption, the agency is to retain a copy of the prescribed forms for sharing identifying and background information between the birth parent(s) and adoptive parents. Each of these forms is entitled "identifying information form" and a suggested format for the form is shown in the forms section. The initial form is to be dated and signed by the birth parent(s) and adoptive parents. Upon request, the agency is to make available a copy of these forms to either party who signed the initial form.

PROPOSED PROCEDURES FOR COURT ORDERED
CUSTODY/VISITATION INVESTIGATIONS

1. Agency receives the order from the court.
2. An initial letter is sent to the parties asking that they complete and return the financial statement, Child Protective Services release of information form and payment for Child Protective Services, questionnaire, and authorization to release school/academic information.
3. Upon receipt of the financial statement, the local agency mails the parties the fee assessment and questionnaire letter. This letter requests that the parties pay the assessed fee to the agency within a specified period of time.
4. If the parties do not return the questionnaire and/or pay the fee by the requested date (and have not contacted the agency with an acceptable explanation), the agency then sends a final letter requesting return of the questionnaire and/or payment of the fee, giving the parties an additional period of time in which to return the questionnaire and pay the fee.

This letter informs the parties that if they fail to comply by the new date, the agency will then plan to notify the court that the agency is unable to provide the requested service. If the petitioner continues to fail to pay the fee and/or return the questionnaire, the agency may then notify both the parties and the court that the investigation cannot be completed or if an assessment of available information indicates it to be in the child's best interest to continue to attempt to complete the investigation, the agency may take steps to do so without payment of the fee and/or the completed questionnaire.

5. Once the local agency has received the questionnaire and the fee has been paid, the agency completes one or more home visits to obtain additional information and necessary verifications and to make an assessment of the home environment.
6. The agency then prepares the investigation report, which is a summary of the information obtained from the questionnaires, home visits, and interviews, as well as the reference letters and assessment of the information obtained and a recommendation, if requested by the court.
7. The investigation report, the questionnaire completed by the parties, and the reference letters are submitted to the court.

INSTRUCTION FOR CUSTODY INVESTIGATION PROCESS

1. By _____ return the following completed forms:
 - a. Financial statement (report all income available to all members of your family unit. Your family unit includes yourself, your spouse or live-in companion, and your children or stepchildren under 18 years of age who live with you).
 - b. Child Protective Services release of information form (for each adult in the home with a \$5 check or money order payable to Virginia Department of Social Services).
 - c. Criminal history records request (this is to be picked up by the client from the police department themselves).
 - d. Authorization to release school/academic information. Please sign and return to agency.
 - e. Questionnaire for completion of custody investigation (to be completed by the petitioner and spouse or other significant adult who lives in the home/has responsibility for children).
2. Upon receipt of your financial statement, the agency will assess the fee to be paid. Virginia Law has established a schedule for certain court ordered services based on income and family size. You will be notified of the assessed fee and will receive specific instruction as to how to pay the fee. We will not be able to proceed further with the custody/visitation matter until fees have been properly assessed and paid.
3. Once the fee has been paid (and all the items in #1 have been returned), we will contact you to arrange an appointment.
4. Appointments may be scheduled to meet with both you and your child(ren) at our office and at your home.

The agency has a limited amount of time to prepare this custody investigation report. Therefore, we must receive all the requested materials by _____.

Failure to submit all the requested information timely will result in our inability to submit our report to the court.

IF YOU HAVE DIFFICULTIES WITH QUESTIONNAIRE OR ANY OTHER MATERIAL,
PLEASE CONTACT YOUR WORKER IMMEDIATELY.

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CUSTODY INVESTIGATIONS/VISITATIONS
SAMPLE FEE ASSESSMENT AND QUESTIONNAIRE LETTER

DATE

Petitioner's Name
Street Address
City, State, & ZIPRE: Custody/Visitation of _____
(Name of Child)Dear Petitioner:

Based on our evaluation of your financial statement, you have been assessed a fee of \$_____. You may pay this fee by cash, certified check, personal check, or money order. This fee can be mailed or brought to the

Name & Address of Agency

We have also enclosed a questionnaire which you and your spouse (or other persons who live in the home and are responsible for raising the child/children) will need to complete as accurately as possible. This questionnaire will become an important part of the document that is presented to court.

Once the fee is paid and you have returned your questionnaire, we will contact you to arrange an appointment for a home visit.

The agency has a limited amount of time to prepare this investigation. Therefore, we **MUST** receive the fee payment and the completed questionnaire by _____. Failure to submit this information to the agency necessitates that we notify the court.

We know you want what is best for your child/children. Your prompt response to the questionnaire and payment of your fee will help us to address the needs of your children as quickly as possible.

Sincerely,

(Worker Name)

(Worker Title)

(Telephone Number)

QUESTIONNAIRE FOR COMPLETION OF
CUSTODY INVESTIGATIONI Identifications

- A. Your Name: _____ DOB _____
First Middle Last
- Relationship to Child _____
- B. Present Spouse (or other adult responsible for children):
_____ DOB _____
First Middle Last
- C. Address _____
Length of time at this address _____
- D. Telephone Numbers _____ (Home) _____ (Work)
- E. Have you had previous contact with this agency? _____
When and why? _____
- F. Children involved in present court action:
- | Name | Where children are currently residing? |
|----------|--|
| 1. _____ | |
| 2. _____ | |
| 3. _____ | |
| 4. _____ | |
- G. Other children or adults in your home:
- | Name | Sex | DOB | Relationship To Petitioner | School Attended or Place of Employment |
|------|-----|-----|----------------------------|--|
|------|-----|-----|----------------------------|--|

1. _____
2. _____
3. _____
4. _____

H. Names of any children not living with you: Describe Relationship.

1. _____
2. _____
3. _____

II **Family History**

QUESTION	
Your father's full name	
Your father's address	
If deceased, give date and cause	
Was your father ever divorced, separated, remarried? Specify	
Number of children he had	
What was his employment?	
Last grade in school completed?	
Your mother's full name	
Your mother's address	

QUESTION	
If deceased, give date and cause	
Was your mother ever divorced, separated, remarried? Specify	
Number of children she had	
What was her employment?	
Last grade in school completed?	
Names and ages of your brothers and sisters	

III Your Background

A. EDUCATION	
QUESTION	
What was the highest grade you completed?	
How many years did you attend college?	
What degree did you receive?	
Name and location of college	
What special vocational or job training other than college have you	

received?	
-----------	--

B. EMPLOYMENT	
QUESTION	
Name and address of current employer	
Working hours	
Date hired in current job	
Type position currently held	
Approximate time you expect to remain in this employment	

C. PREVIOUS EMPLOYMENT	
QUESTION	
Last place you worked	
Date job began	
Date job ended	
Type of work	
Reason for leaving	

Place you worked before that Date job began Date job ended Type of work Reason for leaving	
Placed you worked before that Date job began Date job ended Type of work Reason for leaving	
Place you worked before that Date job began Date job ended Type of work Reason for leaving	

D. MILITARY HISTORY	
QUESTION	

Branch	
Date(s) of service	
Rate/Rank at discharge	

E. CRIMINAL RECORD HISTORY	
QUESTION	
Have you ever been arrested?	
If so, list date, place, charges and circumstances	

F. CHILD PROTECTIVE SERVICES HISTORY	
QUESTION	
Have you ever had a child abuse/neglect complaint lodged against you?	
Date and place	
Disposition, if known	

G. RESIDENCY HISTORY (within last 7 years, starting with most recent)	
QUESTION	
Previous address	
When did you live there? (from-to dates)	
Previous address	

When did you live there? (from-to dates)	
Previous address When did you live there? (from-to dates)	
Previous address When did you live there? (from-to dates)	

H. HEALTH	
QUESTION	
Identify current illnesses or medical problems	
If you or anyone in your family has ever experienced any of the following, please state relationship of person to you:	
Alcoholism	
Substance Abuse	
T.B.	
Epilepsy	
Cancer	
HIV	
Heart disease	

Diabetes	
Allergies	
Asthma	
Emotional/mental illness	
List any surgery or hospitalizations (include psychiatric hospitalizations)	
Please explain any treatment you have received for emotional or marital-related problems	
Please describe your drug and/or alcohol use	

I. MARRIAGE BACKGROUND	
Date and place of present marriage (ATTACH COPY OF CERTIFICATE)	
QUESTION	
Describe previous marriage Date of marriage To whom Place Date of divorce/death Names/ages of children from this marriage	
Describe previous marriage Date of marriage To whom Place Date of divorce/death Names/ages of children from this marriage	

<p>Describe previous marriage</p> <p>Date of marriage</p> <p>To Whom</p> <p>Place</p> <p>Date of divorce/death</p> <p>Names/ages of children from this marriage</p>	
---	--

IV Family Relationships

QUESTION	
How did your parents view the importance of your education? Were you able to meet their expectations? Explain	
Describe your relationship with your parents as a child	
How did your parents show affection? How did they show anger?	
As a child, did any of your family members experience problems with sudden loss of income, jail, death, divorce, foster care, abuse? Explain	
How have your childhood experiences affected the way you are as an adult?	
Considering your own upbringing, what would you want to do differently with your own child?	
What do children owe their parents?	
How did you meet your present partner? How long did you know	

each other before marriage or living together?	
Describe current relationships with extended family members (parent, brothers and sisters, etc.)	

V Support Network

QUESTION	
Describe relationship with extended friends, neighbors, church, etc.	

VI Personal Profile

QUESTION	
What do you consider your strengths and weaknesses as a person?	
What are some failures or disappointments you have experienced? How did you handle these?	
What activities do you enjoy by yourself?	
What activities do you enjoy participating in with your family?	
Does your religious affiliation prevent medical intervention or public school attendance for your child? If so, please explain.	

VI Personal Profiled (Con't)	
How do you show affection to each member of your family?	
How do you handle your anger?	
How is your present marriage or relationship different from previous marriages or relationships?	
What are your moral and religious expectations of a child?	
If something should happen to you, who will be responsible for your child?	
How is your role as a parent different since the separation?	

Describe the role/responsibilities you feel the other parent should have in your life.	
In your opinion, what role should a stepparent play in your child's life?	

**VII Child Care Plans and Activities
for the Child(ren) Before the Court**

When you are unable to be with your child, what is/will be your child care plan? (Include provider's name, licensure status, other children kept)	
How much additional time is your child(ren) left in the care of others?	
How often do you currently visit with your children?	
How much of your visitation time is spent in direct interaction with your child(ren)? Is this court-ordered? Supervised?	

Name _____ DOB _____

School and grade attended _____

--	--

Child's hobbies/ participation in activities	
What does your child add to your life?	
Where will this child fit into your family?	
Describe this child's feelings about you.	

Describe this child's feelings about his/her other parent.	
How did you explain the divorce and/or separation to this child?	
How did you explain the present court action to this child?	
Describe child's relationship with <u>all</u> other children in the home.	

IX Court Action

- A. Explain briefly the reason for the present court intervention.
- B. What steps have you taken to resolve the present difficulties before resorting to court action?
- C. How have you contributed to the present difficulties?

D. Please explain why you think you should be awarded custody/visitation.

X **Please add any additional information or comments which you feel will be helpful in the completion of your custody investigation.**

XI **List names, addresses, and telephone numbers of three non-relative references.**

1. _____

2. _____

3. _____

I certify that all of the above is accurate and true to the best of my knowledge.

Signature

Date

**CUSTODY INVESTIGATION REFERRAL FORM
TO BE COMPLETED AT COURT**

1. NAME, SEX, RACE, DATE OF BIRTH, ADDRESS OF CHILD (CHILDREN).

1. _____

2. _____

3. _____

2. HOME TO BE INVESTIGATED:

RELATI ON NAME- TO ABOVE	ADDRE SS/ PHONE	SS#	DOB	SEX	RACE	MARITA L STATUS

3. REASON CASE IS BEFORE THE COURT (PROTECTIVE SERVICE, PARENT PETITIONING FOR CUSTODY, ETC.) Motion to Amend Custody

4. DATE OF LAST COURT
HEARING: _____

DUE DATE OF NEXT COURT
HEARING: _____

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5. PRESIDING
JUDGE: _____
6. ATTORNEYS INVOLVED AND WHO THEY REPRESENT:
1. _____
2. _____
3. _____
6. IS CUSTODY MEDIATION
ORDERED? _____
- (COURT STAFF _____ SOCIAL SERVICES _____)
7. HAS A REFERRAL BEEN MADE TO
CASA? _____
8. OTHER PERTINENT
INFORMATION: _____

NOTICE:

A home study has been ordered in this case. The Department of Social Services will complete that study and the court will assess a fee against the party whom the court feels should be responsible for the fee. That fee will be established by the Department taking into consideration the parties' income, family size, and the actual cost of the study. In cases where the Department determines the parties cannot afford the fee, upon justification, the court may waive the fee.

Date_____
Signature

Address_____
Phone Number

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HOME INSPECTION REPORT

RE: _____ (Case Name)

1. Parent/Party: _____

2. Address: _____

3. How long resided at current address? _____

4. Relationship to child: _____

5. Names and ages of persons living in home (even part-time)

6. Home is being rented___ or purchased___ at ___/month.

7. Dwelling Type: Detached home___: Townhouse___:
Apartment___: Mobile Home___: Duplex___; Other___.

8. In whose name is lease or mortgage? _____

9. Description of Interior:

a. Number of Bedrooms___; Kitchen___; Living Room___;
Number of Baths___: Basement___; Levels___; Other___.

b. Physical Condition/State of Repair: Adequate___; Inadequate___

Comments: _____

c. Housekeeping Standards: Adequate___; Inadequate___;

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Comments: _____

- d. Furnishings: Adequate____; Inadequate____;

Comments: _____

- e. Working smoke detector near sleeping area on every level: Yes_ No__

- f. Accessible working basin and toilet facilities: _____

- g. Working heating system:_____ Type:_____

- h. Working light in each room:_____

- i. Is there a means for cooking and refrigeration?_____

- j. Access to a working phone:_____. Is location in home:_____
-
- If outside home, specify location and name and telephone number of
-
- person with
-
- phone_____

10. Sleeping arrangement in home:

Bedroom (by number)	# of Beds	Occupants' Names	Relationship	Age
---------------------	-----------	------------------	--------------	-----

_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

11. Home or yard has space for recreational activities?_____

12. Firearms in home (per party statement)?_____.
-
- If yes, are firearms unloaded and ammunition stored in a locked cabinet or
-
- inaccessible
-
- area?_____

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13. Pool on premises? _____
If yes, is the pool completely enclosed by a sturdy fence measuring at least four feet high? _____
Does the fence have a self-latching lock, that also measures four feet high, on a self closing gate? _____

14. Pets: _____ (Type, breed, number)

15. Evidence of Lead Based Paint or is paint on wall chipping? _____

16. Are there plans to move in the near future? _____
If yes, where and
when? _____

17. Describe neighborhood in general (including known drug activity or documented violence). _____

18. Are cleaning materials and poisonous materials put away from small children? _____

Further Comments (look for safety around wood stoves, kerosene heaters, stair railings, fenced yard if near street, etc.)

Inspection:

The home inspection was completed on _____

at _____. Advance notice was

given.

Submitted By:

Signature

Typed Name

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**CUSTODY INVESTIGATION/VISITATION
RETURN FORM TO: FINANCIAL STATEMENT**NAME _____ WORK
PHONE _____ (Times) _____ADDRESS _____ HOME
PHONE _____ (Times) __________
NAME: _____ EMPLOYER'S

SOCIAL SECURITY # _____

YOUR DATE OF BIRTH _____

YOUR GROSS SALARY \$ _____ Gross refers to total salary, before deductions)

How is this amount paid to you? Check one: hourly _____ weekly _____ bi-weekly _____
monthly _____AMOUNT OF OTHER INCOME AND SOURCE (public assistance, child support,
alimony, rental income, investments, etc.) Use back of form if necessary.

Amount _____ Source _____

OTHER FAMILY UNIT MEMBERS
(List all children and adults. Use back of form if necessary)

FULL NAME	SOCIAL SECURITY #	DATE OF BIRTH	RELATIONS HIP TO YOU	INCOME & SOURCES

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ADDITIONAL
COMMENTS: _____

I certify that the information above is true and correct to the best of my knowledge.

Signature

OFFICE USE ONLY:

Number in family _____ Monthly income \$ _____

Fee Assessed \$ _____ Date _____ Worker _____

Fee Paid \$ _____ Date _____ Worker _____

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**The Virginia Putative Father Registry
Registration Form****Type of Registration:**☐ New Registration ☐ Updated Registration ☐ Withdrawal Registration

The Virginia Putative Father Registry does not establish paternity. The registration may be used to help establish paternity, but does not start the legal process to establish paternity.

Instructions:

- Please print or type. Detach. Place in the envelope provided and mail to:
The Virginia Putative Father Registry, Virginia Department of Social Services, 7 North Eighth St.,
Richmond, VA 23219-3301
- Please complete all items. If an item is not known, enter "unknown." If the item does not apply, enter N/A (not applicable).

Putative Father's Identifying Information:

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: _____ Month: _____ Day: _____ Year: _____
Social Security Number: * _____ Driver's License Number: _____
State That Issues Driver's License: _____ State ID Number: _____
Proof of Legal Residence: Type: _____ Number: _____
Permanent Home Address: Street: _____ City: _____ State: _____ Zip Code: _____
Current Mailing Address: Street: _____ City: _____ State: _____ Zip Code: _____
Telephone Number: Area Code: - _____
Email Address: _____
Employer: _____ Occupation: _____
Ethnicity: _____ Race: _____
Father's Physical Description (Optional Response):
Height: _____ Ft. _____ in. Weight: _____ lbs. Hair Color: _____ Eye Color: _____ Identifying Marks: _____
State of Conception of Child (i.e. VA, NC, MD) _____ Location of Conception of Child (i.e. City): _____
Dates of Possible Conception: _____

Mother's Identifying Information (if known):

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: _____ Month: _____ Day: _____ Year: _____
Approximate Age of Mother: _____
Permanent Home Address: Street: _____ City: _____ State: _____ Zip Code: _____
Current Mailing Address: Street: _____ City: _____ State: _____ Zip Code: _____
Telephone Number: Area Code: - _____
Email Address: _____
Employer: _____ Occupation: _____
Ethnicity: _____ Race: _____
Mother's Physical Description (Optional Response):
Height: _____ Ft. _____ in. Weight: _____ lbs. Hair Color: _____ Eye Color: _____ Identifying Marks: _____

Child's Information (if known):

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: _____ Month: _____ Day: _____ Year: _____
Gender: _____ Child's Place of Birth: (City and State) _____
Hospital Where Birth Occurred: _____
Estimated Due Date of Mother: _____

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This information is true and accurate to the best of my ability. This form is signed under penalty of perjury (Class 5 Felony) punishable by fine, imprisonment or both:

Signed: _____
Putative Father

Date of Signature: _____

*Section 63.2-1251, *Code of Virginia* requires the submission of the social security number.
032-02-0500-00-eng

October 2009

VOLUME VII, SECTION III, CHAPTER D

Virginia Department of Social Services**The Virginia Putative Father Registry****Request to Search Form**

Please print or type

Name of Person Requesting Search _____
Law Firm or Agency Name _____
Address _____ City _____, State _____, Zip Code _____
Phone Number _____ Fax Number _____
Email Address _____

Select status to search the registry. Information in the Putative Father Registry is confidential may be release on upon request to:

- ☐ Mother of the child
- ☐ Attorney representing a party in an adoption proceeding
- ☐ A party to an adoption proceeding
- ☐ Attorney representing a party in a termination of parental rights proceeding
- ☐ A party to a termination of parental rights proceeding
- ☐ Child Placing Agency/Local Department of Social Services
- ☐ Court or person designated by the court
- ☐ Other State Putative Father Registry
- ☐ Support Enforcement

The Virginia Putative Father Registry does not establish paternity. The registration may be used to help establish paternity. Section 63.2-1250 Code of Virginia requires the child-placing agency or adoptive parent(s) to give notice of a proceeding for adoption or termination of parental rights regarding, a child to a registrant who has timely registered.

I certify that I am authorized as selected from the list above as a person or representative of an agency to request a search of The Virginia Putative Father Registry.

Signature of Requestor_____
Date of Signature

State _____

City/County _____

Sworn and subscribe before me. This _____ day of _____, 20____.

Notary Public _____ My commission expires: _____
032-02-0501-00-eng

**The Virginia Putative Father Registry
Search Form**

The Virginia Putative Father Registry does not establish paternity. The registration may be used to help establish paternity, but does not start the legal process to establish paternity.

Instructions:

- Please print or type and send to:
The Virginia Putative Father Registry, Virginia Department of Social Services, 7 North Eighth St., Richmond, VA 23219-3301
- Please complete all items. If an item is not known, enter "unknown." If the item does not apply, enter N/A (not applicable).

Putative Father's Identifying Information:

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: _____ Month: _____ Day: _____ Year: _____
Social Security Number: * _____ Driver's License Number: _____
State that issued Driver's License: _____ State ID Number: _____
Proof of Legal Residence: Type: _____ Number: _____
Permanent Home Address: Street: _____ City: _____ State: _____ Zip Code: _____
Current Mailing Address: Street: _____ City: _____ State: _____ Zip Code: _____
Telephone Number: Area Code: _____
Email Address: _____
Employer: _____ Occupation: _____
Ethnicity: _____ Race: _____
Father's Physical Description (Optional Response):
Height: ____ Ft. ____ in. Weight: _____ lbs. Hair Color: _____ Eye Color: _____ Identifying Marks: _____
State of Conception of Child (i.e. VA, NC, MD) _____ Location of Conception of Child (i.e. City): _____
Dates of Possible Conception: _____

Mother's Identifying Information (if known):

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: _____ Month: _____ Day: _____ Year: _____
Approximate Age of Mother: _____
Permanent Home Address: Street: _____ City: _____ State: _____ Zip Code: _____
Current Mailing Address: Street: _____ City: _____ State: _____ Zip Code: _____
Telephone Number: Area Code: _____ - _____
Email Address: _____
Employer: _____ Occupation: _____
Ethnicity: _____ Race: _____
Mother's Physical Description (Optional Response):
Height: ____ Ft. ____ in. Weight: _____ lbs. Hair Color: ____ Eye Color: ____ Identifying Marks: _____

Child's Information (if known):

First Name: _____ Middle Name: _____ Last Name: _____
Also Known As: _____ Date of Birth: Month: _____ Day: _____ Year: _____
Gender: _____ Child's Place of Birth: (City and State) _____
Hospital Where Birth Occurred: _____
Estimated Due Date of Mother: _____

This information is true and accurate to the best of my ability. This form is signed under penalty of perjury (Class 5 Felony) punishable by fine, imprisonment or both:

Signed: _____ Date: _____

*Section 63.2-1251, *Code of Virginia* requires the submission of the social security number.
032-02-0501-00-eng

October 2009

VOLUME VII, SECTION III, CHAPTER D

COMMONWEALTH OF VIRGINIA DEPARTMENT OF SOCIAL SERVICES ACKNOWLEDGEMENT CLERK CIRCUIT COURT OF	DATE:
	ENTER ALL INFORMATION BELOW WHEN KNOWN
	RE: ADOPTION OF
	PETITIONERS:
	AGENCY CASE NUMBER:
	VIRGINIA ADOPTION CASE NUMBER:
CHANCERY NUMBER:	

THIS WILL ACKNOWLEDGE RECEIPT ON _____ BY _____
Date Agency

OF THE ITEMS MARKED BELOW:

☐ PETITION

☐ CONSENT

☐ ORDER OF REFERENCE TO _____

☐ INTERLOCUTORY ORDER TO _____

☐ FINAL ORDER ENTERED ON _____

☐ OTHER _____

TO COURT AND ATTORNEY:

☐ OTHER: _____

032-02-0504-00 eng

DATE: September 29, 2009

For: Volume VII Distribution
Service Program Manual, Volume VII, Section III, Chapter C

Transmittal #225

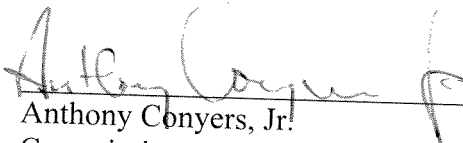
The purpose of this transmittal is to provide legislative changes made by the 2009 General Assembly and to update existing information to Volume VII, Section III, Chapter C, Adoption Agency Placement. The changes were effective July 1, 2009.

In addition to the substantive changes, there are changes in language, organization and formatting of Chapter C. Guidance revision is an evolving process and we welcome suggestions for future revisions of the chapter.

Substantive changes to Volume VII, Section III, Chapter C are as follows:

Changes in Chapter C, Effective July 1, 2009		
Sections	Pages	Substantive Changes
Table of Contents	Page 1	Changes Section 11 from Section 12.
Guiding Principles	Page 4	Adds language: While it is the third goal in Virginia, adoption is recognized as offering the most legal permanence if reunification is not achieved.
Guiding Principles	Page 5 and 6	Adds language for the Virginia Children's Services Practice Model; provides guiding principals to include: We believe that all children and youth need and deserve a permanent family.
Guiding Principles	Page 7	Remove definitions of fathers
Section 3	Page 13 and 14	Adds language that the permanent entrustment agreement may be revoked prior to its approval by the court and after placement of a child in an adoptive home with the written consent of the child placing agency along with the birth parent and adoptive parent.
Section 3	Page 18	Adds language that a child support payment in absence of other contact with the child is not considered contact (Section 63.2-1202).
Section 3	Page 25	Adds language that the agency may obtain an affidavit from the birth mother that the identity of the birth father is unknown or not reasonably ascertainable. The agency may file this affidavit with the court as evidence that the identity of the father is unknown or unascertainable. (Section 63.2-1222.B). The agency must continue to check the Virginia Putative Father Registry to determine if a putative father has registered.
Section 3	Page 37	Adds language for when the licensed child-placing agency or local board shall consider the birth parents recommendations prior to or after the acceptance of custody of a child placed for adoption.

Section 3	Pages 40-48	Adds guidance for Post-Adoption Contact and Communication Agreements.
Section 3	Page 50	Adds information regarding federal requirement to inform prospective adoptive parent(s) of possible tax credits for children adopted from foster care
Section 5	Page 58	Adds language that the local director or child-placing agency, whichever agency completed the home study or provided supervision, shall cause or have caused the child to be visited... Whenever practicable, such visits shall be made within the six-month period immediately following the date upon which the child was placed in the physical care of the adoptive parents or entry of the interlocutory order.
Section 7	Page 90	Adds instructions related to AREVA.
Section 8	Page 113	Adds requirement that agencies are required to inform prospective adoptive parent(s) of possible Federal tax credits under section 23 of the Internal Revenue Code of 1986 (P.L. 110-351).
Section 9	138	Provides new address to send appeals regarding adoption assistance effective October 27, 2009.
Section 11	Page 165	Provides new address to send completed registration forms for the Virginia Putative Father Registry effective October 27, 2009.
Section 11	Page 167	Provides new address to send updated registration forms for the Virginia Putative Father Registry effective October 27, 2009.
Section 11	Page 170	Adds language that if the identity of the putative father and whereabouts are reasonably ascertainable, a written notice of the adoption plan and availability of registration with the Virginia Putative Father Registry must be sent by certified mailed to the putative father's last known address.
Section 12	Page 171	Adds Post-Adoption Contact and Communication Agreement Form, Post-Adoption Contact and Communication Fact Sheet, and Post-Adoption Contact and Communication Benefits and Limitations.


 Anthony Conyers, Jr.
 Commissioner

DATE: September 29, 2009

For: Volume VII Distribution
Service Program Manual, Volume VII, Section III, Chapter D

Transmittal #226

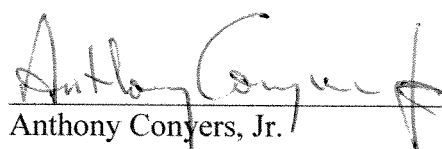
The purpose of this transmittal is to provide legislative changes made by the 2009 General Assembly and to update existing information to Volume VII, Section III, Chapter D, Adoption-Non-Agency Placement and Other Court Services. The changes were effective July 1, 2009.

In addition to the substantive changes, there are changes in language, organization and formatting of Chapter D. All substantive changes are bolded throughout the chapter. Guidance revision is an evolving process and we welcome suggestions for future revisions of the chapter.

Substantive changes to Volume VII, Section III, Chapter D are as follows:

Changes in Chapter D, Effective July 1, 2009		
Sections	Pages	Substantive Changes
Stepparent Adoptions	Page 7	Clarifies that a procedural provision may be waived for the spouse of an adoptive parent to whom the provision applies.
	Page 19	Adds language that a death certificate for a deceased birth parent can be submitted to court as evidence that the consent is not required (Section 63.2-1203.3).
Parental Placement Adoptions	Page 28	Adds language that if the identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not reasonably ascertainable, verification of compliance with the Virginia Putative Father Registry is required to be provided to the court (Section 63.2-1233.1.b).
	Page 32	Adds language that a death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (Section 63.2-1203.3 <i>Code of Virginia</i>).
	Page 33	If the identity of the birth father is reasonably ascertainable, but the whereabouts of the birth father are not reasonably ascertainable, verification of compliance with the Virginia Putative Father Registry must be provided to the court (Section 63.2-1233.1.b).
	Page 33	Reduces timeframe from 21 days to 15 days after personal service of notice for a court to waive a

		required consent.
	Page 34	Adds language that a death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (Section 63.2-1203.3 <i>Code of Virginia</i>).
	Page 50	Reduces timeframe from 21 days to 15 days after personal service of notice for a court to waive a required consent.
Responsibilities of the agency	Page 68	Adds language that a death certificate for a deceased birth parent can be submitted to court as evidence that the consent is not required (Section 63.2-1203.3).
	Page 69, 78, and 80	Reduces timeframe from 21 days to 15 days after personal service of notice for a court to waive a required consent.
Virginia Putative Father	Page 149	Provides new address to send updated registration forms for the Virginia Putative Father Registry effective October 27, 2009.
	Page 150	Adds language that if the identity of the putative father and whereabouts are reasonably ascertainable, a written notice of the adoption plan and availability of registration with the Virginia Putative Father Registry must be sent by certified mail to the putative father's last known address (Section 63.2-1250.E).
	Page 151 and 153	Provides new address to send updated registration forms for the Virginia Putative Father Registry effective October 27, 2009.


 Anthony Conyers, Jr.
 Commissioner