

1 HOUSE BILL NO. 869
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee for Courts of Justice
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Brewer)

6 A BILL to amend and reenact §§ 17.1-275, 63.2-1201, 63.2-1208, 63.2-1210, 63.2-1228, 63.2-1241, and
 7 63.2-1250 of the Code of Virginia, relating to adoption.

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

9 **1. That §§ 17.1-275, 63.2-1201, 63.2-1208, 63.2-1210, 63.2-1228, 63.2-1241, and 63.2-1250 of the Code**
 10 **of Virginia are amended and reenacted as follows:**

11 **§ 17.1-275. Fees collected by clerks of circuit courts; generally.**

12 A. A clerk of a circuit court shall, for services performed by virtue of his office, charge the
 13 following fees:

14 1. [Repealed.]

15 2. For recording and indexing in the proper book any writing and all matters therewith, or for
 16 recording and indexing anything not otherwise provided for, \$18 for an instrument or document consisting
 17 of 10 or fewer pages or sheets; \$32 for an instrument or document consisting of 11 to 30 pages or sheets;
 18 and \$52 for an instrument or document consisting of 31 or more pages or sheets. Whenever any writing
 19 to be recorded includes plat or map sheets no larger than eight and one-half inches by 14 inches, such plat
 20 or map sheets shall be counted as ordinary pages for the purpose of computing the recording fee due
 21 pursuant to this section. A fee of \$17 per page or sheet shall be charged with respect to plat or map sheets
 22 larger than eight and one-half inches by 14 inches. Only a single fee as authorized by this subdivision shall
 23 be charged for recording a certificate of satisfaction that releases the original deed of trust and any
 24 corrected or revised deeds of trust. Three dollars and fifty cents of the fee collected for recording and
 25 indexing shall be designated for use in preserving the permanent records of the circuit courts. The sum

26 collected for this purpose shall be administered by The Library of Virginia in cooperation with the circuit
27 court clerks.

28 3. For appointing and qualifying any personal representative, committee, trustee, guardian, or other
29 fiduciary, in addition to any fees for recording allowed by this section, \$20 for estates not exceeding
30 \$50,000, \$25 for estates not exceeding \$100,000 and \$30 for estates exceeding \$100,000. No fee shall be
31 charged for estates of \$5,000 or less.

32 4. For entering and granting and for issuing any license, other than a marriage license or a hunting
33 and fishing license, and administering an oath when necessary, \$10.

34 5. For issuing a marriage license, attaching certificate, administering or receiving all necessary
35 oaths or affidavits, indexing and recording, \$10. For recording an order to celebrate the rites of marriage
36 pursuant to § 20-25, \$25 to be paid by the petitioner.

37 6. For making out any bond, other than those under § 17.1-267 or subdivision A 4, administering
38 all necessary oaths and writing proper affidavits, \$3.

39 7. For all services rendered by the clerk in any garnishment or attachment proceeding, the clerk's
40 fee shall be \$15 in cases not exceeding \$500 and \$25 in all other cases.

41 8. For making out a copy of any paper, record, or electronic record to go out of the office, which
42 is not otherwise specifically provided for herein, a fee of \$0.50 for each page or, if an electronic record,
43 each image. From such fees, the clerk shall reimburse the locality the costs of making out the copies and
44 pay the remaining fees directly to the Commonwealth. The funds to recoup the cost of making out the
45 copies shall be deposited with the county or city treasurer or Director of Finance, and the governing body
46 shall budget and appropriate such funds to be used to support the cost of copies pursuant to this
47 subdivision. For purposes of this section, the costs of making out the copies authorized under this section
48 shall include costs included in the lease and maintenance agreements for the equipment and the technology
49 needed to operate electronic systems in the clerk's office used to make out the copies, but shall not include
50 salaries or related benefits. The costs of copies shall otherwise be determined in accordance with § 2.2-
51 3704. However, there shall be no charge to the recipient of a final order or decree to send an attested copy
52 to such party.

53 9. For annexing the seal of the court to any paper, writing the certificate of the clerk accompanying
54 it, the clerk shall charge \$2 and for attaching the certificate of the judge, if the clerk is requested to do so,
55 the clerk shall charge an additional \$0.50.

56 10. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-
57 247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess
58 a fee of \$150 for each felony conviction and each felony disposition under § 18.2-251 which shall be taxed
59 as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment Fund.

60 11. In any case in which a person is convicted of a violation of any provision of Article 1 (§ 18.2-
61 247 et seq.) of Chapter 7 of Title 18.2 or is subject to a disposition under § 18.2-251, the clerk shall assess
62 a fee for each misdemeanor conviction and each misdemeanor disposition under § 18.2-251, which shall
63 be taxed as costs to the defendant and shall be paid into the Drug Offender Assessment and Treatment
64 Fund as provided in § 17.1-275.8.

65 12. Upon the defendant's being required to successfully complete traffic school, a mature driver
66 motor vehicle crash prevention course, or a driver improvement clinic in lieu of a finding of guilty, the
67 court shall charge the defendant fees and costs as if he had been convicted.

68 13. In all civil actions that include one or more claims for the award of monetary damages the
69 clerk's fee chargeable to the plaintiff shall be \$100 in cases seeking recovery not exceeding \$49,999; \$200
70 in cases seeking recovery exceeding \$49,999, but not exceeding \$100,000; \$250 in cases seeking recovery
71 exceeding \$100,000, but not exceeding \$500,000; and \$300 in cases seeking recovery exceeding
72 \$500,000. Ten dollars of each such fee shall be apportioned to the Courts Technology Fund established
73 under § 17.1-132. A fee of \$25 shall be paid by the plaintiff at the time of instituting a condemnation case,
74 in lieu of any other fees. There shall be no fee charged for the filing of a cross-claim or setoff in any
75 pending action. However, the fees prescribed by this subdivision shall be charged upon the filing of a
76 counterclaim or a claim impleading a third-party defendant. The fees prescribed above shall be collected
77 upon the filing of papers for the commencement of civil actions. This subdivision shall not be applicable
78 to cases filed in the Supreme Court of Virginia.

79 13a. For the filing of any petition seeking court approval of a settlement where no action has yet
80 been filed, the clerk's fee, chargeable to the petitioner, shall be \$50, to be paid by the petitioner at the time
81 of filing the petition.

82 14. In addition to the fees chargeable for civil actions, for the costs of proceedings for judgments
83 by confession under §§ 8.01-432 through 8.01-440, the clerk shall tax as costs (i) the cost of registered or
84 certified mail; (ii) the statutory writ tax, in the amount required by law to be paid on a suit for the amount
85 of the confessed judgment; (iii) for the sheriff for serving each copy of the order entering judgment, \$12;
86 and (iv) for docketing the judgment and issuing executions thereon, the same fees as prescribed in
87 subdivision A 17.

88 15. For qualifying notaries public, including the making out of the bond and any copies thereof,
89 administering the necessary oaths, and entering the order, \$10.

90 16. For each habeas corpus proceeding, the clerk shall receive \$10 for all services required
91 thereunder. This subdivision shall not be applicable to such suits filed in the Supreme Court of Virginia.

92 17. For docketing and indexing a judgment from any other court of the Commonwealth, for
93 docketing and indexing a judgment in the new name of a judgment debtor pursuant to the provisions of §
94 8.01-451, but not when incident to a divorce, for noting and filing the assignment of a judgment pursuant
95 to § 8.01-452, a fee of \$5; and for issuing an abstract of any recorded judgment, when proper to do so, a
96 fee of \$5; and for filing, docketing, indexing and mailing notice of a foreign judgment, a fee of \$20.

97 18. For all services rendered by the clerk in any court proceeding for which no specific fee is
98 provided by law, the clerk shall charge \$10, to be paid by the party filing said papers at the time of filing;
99 however, this subdivision shall not be applicable in a divorce cause prior to and including the entry of a
100 decree of divorce from the bond of matrimony.

101 19, 20. [Repealed.]

102 21. For making the endorsements on a forthcoming bond and recording the matters relating to such
103 bond pursuant to the provisions of § 8.01-529, \$1.

104 22. For all services rendered by the clerk in any proceeding pursuant to § 57-8 or 57-15, \$10.

105 23. For preparation and issuance of a subpoena duces tecum, \$5.

106 24. For all services rendered by the clerk in matters under § 8.01-217 relating to change of name,
107 \$20; however, this subdivision shall not be applicable in cases where the change of name is incident to a
108 divorce.

109 25. For providing court records or documents on microfilm, per frame, \$0.50.

110 26. In all divorce and separate maintenance proceedings, and all civil actions that do not include
111 one or more claims for the award of monetary damages, the clerk's fee chargeable to the plaintiff shall be
112 \$60, \$10 of which shall be apportioned to the Courts Technology Fund established under § 17.1-132 to be
113 paid by the plaintiff at the time of instituting the suit, which shall include the furnishing of a duly certified
114 copy of the final decree. The fees prescribed by this subdivision shall be charged upon the filing of a
115 counterclaim or a claim impleading a third-party defendant. However, no fee shall be charged for (i) the
116 filing of a cross-claim or setoff in any pending suit or (ii) the filing of a counterclaim or any other
117 responsive pleading in any annulment, divorce, or separate maintenance proceeding. In divorce cases,
118 when there is a merger of a divorce of separation a mensa et thoro into a decree of divorce a vinculo, the
119 above mentioned fee shall include the furnishing of a duly certified copy of both such decrees.

120 27. For the acceptance of credit or debit cards in lieu of money to collect and secure all fees,
121 including filing fees, fines, restitution, forfeiture, penalties and costs, the clerk shall collect from the person
122 presenting such credit or debit card a reasonable convenience fee for the processing of such credit or debit
123 card. Such convenience fee shall not exceed four percent of the amount paid for the transaction or a flat
124 fee of \$2 per transaction. The clerk may set a lower convenience fee for electronic filing of civil or criminal
125 proceedings pursuant to § 17.1-258.3. Nothing herein shall be construed to prohibit the clerk from
126 outsourcing the processing of credit and debit card transactions to a third-party private vendor engaged by
127 the clerk. Convenience fees shall be used to cover operational expenses as defined in § 17.1-295.

128 28. For the return of any check unpaid by the financial institution on which it was drawn or notice
129 is received from the credit or debit card issuer that payment will not be made for any reason, the clerk may
130 collect a fee of \$50 or 10 percent of the amount of the payment, whichever is greater.

131 29. For all services rendered, except in cases in which costs are assessed pursuant to § 17.1-275.1,
132 17.1-275.2, 17.1-275.3, or 17.1-275.4, in an adoption proceeding, a fee of \$20, in addition to the fee

133 imposed under § 63.2-1246, to be paid by the petitioner or petitioners. For each petition for adoption filed
134 pursuant to § 63.2-1201, except those filed pursuant to subdivisions ~~5~~4 and ~~6~~5 of § 63.2-1210, an
135 additional \$50 filing fee as required under § 63.2-1201 shall be deposited in the Virginia Birth Father
136 Registry Fund pursuant to § 63.2-1249.

137 30. For issuing a duplicate license for one lost or destroyed as provided in § 29.1-334, a fee in the
138 same amount as the fee for the original license.

139 31. For the filing of any petition as provided in §§ 33.2-1023, 33.2-1024, and 33.2-1027, a fee of
140 \$5 to be paid by the petitioner; and for the recordation of a certificate or copy thereof, as provided for in
141 § 33.2-1021, as well as for any order of the court relating thereto, the clerk shall charge the same fee as
142 for recording a deed as provided for in this section, to be paid by the party upon whose request such
143 certificate is recorded or order is entered.

144 32. For making up, certifying and transmitting original record pursuant to the Rules of the Supreme
145 Court, including all papers necessary to be copied and other services rendered, except in cases in which
146 costs are assessed pursuant to § 17.1-275.1, 17.1-275.2, 17.1-275.3, 17.1-275.4, 17.1-275.7, 17.1-275.8,
147 or 17.1-275.9, a fee of \$20.

148 33. [Repealed.]

149 34. For filings, etc., under the Uniform Federal Lien Registration Act (§ 55.1-653 et seq.), the fees
150 shall be as prescribed in that Act.

151 35. [Repealed.]

152 36. For recordation of certificate and registration of names of nonresident owners in accordance
153 with § 59.1-74, a fee of \$10.

154 37. For maintaining the information required under the Overhead High Voltage Line Safety Act
155 (§ 59.1-406 et seq.), the fee as prescribed in § 59.1-411.

156 38. For lodging, indexing, and preserving a will in accordance with § 64.2-409, a fee of \$5.

157 39. For filing a financing statement in accordance with § 8.9A-505, the fee shall be as prescribed
158 under § 8.9A-525.

159 40. For filing a termination statement in accordance with § 8.9A-513, the fee shall be as prescribed
160 under § 8.9A-525.

161 41. For filing assignment of security interest in accordance with § 8.9A-514, the fee shall be as
162 prescribed under § 8.9A-525.

163 42. For filing a petition as provided in §§ 64.2-2001 and 64.2-2013, the fee shall be \$10.

164 43. For issuing any execution, and recording the return thereof, a fee of \$1.50.

165 44. For the preparation and issuance of a summons for interrogation by an execution creditor, a
166 fee of \$5. If there is no outstanding execution, and one is requested herewith, the clerk shall be allowed
167 an additional fee of \$1.50, in accordance with subdivision A 44.

168 B. In accordance with § 17.1-281, the clerk shall collect fees under subdivisions A 7, A 13, A 16,
169 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for courthouse construction,
170 renovation or maintenance.

171 C. In accordance with § 17.1-278, the clerk shall collect fees under subdivisions A 7, A 13, A 16,
172 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for services provided for the
173 poor, without charge, by a nonprofit legal aid program.

174 D. In accordance with § 42.1-70, the clerk shall collect fees under subdivisions A 7, A 13, A 16,
175 A 18 if applicable, A 20, A 22, A 24, A 26, A 29, and A 31 to be designated for public law libraries.

176 E. All fees collected pursuant to subdivision A 27 and § 17.1-276 shall be deposited by the clerk
177 into a special revenue fund held by the clerk, which will restrict the funds to their statutory purpose.

178 F. The provisions of this section shall control the fees charged by clerks of circuit courts for the
179 services above described.

180 **§ 63.2-1201. Filing of petition for adoption; venue; jurisdiction; and proceedings.**

181 Proceedings for the adoption of a minor child and for a change of name of such child shall be
182 instituted only by petition to a circuit court in the county or city in which the petitioner resides, in the
183 county or city in which the child-placing agency that placed the child is located, or in the county or city
184 in which a birth parent executed a consent pursuant to § 63.2-1233. Such petition may be filed by any
185 natural person who resides in the Commonwealth, or who has custody of a child placed by a child-placing

186 agency of the Commonwealth, or by an adopting parent of a child who was subject to a consent proceeding
187 held pursuant to § 63.2-1233, or by intended parents who are parties to a surrogacy contract. The petition
188 shall ask leave to adopt a minor child not legally the petitioner's by birth and, if it is so desired by the
189 petitioner, also to change the name of such child. In the case of married persons, or persons who were
190 previously married who are permitted to adopt a child under § 63.2-1201.1, the petition shall be the joint
191 petition of the husband and wife or former spouses but, in the event the child to be adopted is legally the
192 child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose
193 of indicating consent to the prayer thereof only. If any procedural provision of this chapter applies to only
194 one of the adoptive parents, then the court may waive the application of the procedural provision for the
195 spouse of the adoptive parent to whom the provision applies. The petition shall contain a full disclosure
196 of the circumstances under which the child came to live, and is living, in the home of the petitioner. Each
197 petition for adoption shall be signed by the petitioner as well as by counsel of record, if any. In any case
198 in which the petition seeks the entry of an adoption order without referral for investigation, the petition
199 shall be under oath.

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

204 The petition for adoption, except those filed pursuant to subdivisions ~~5.4~~ and ~~6.5~~ of § 63.2-1210,
205 shall include an additional \$50 filing fee that shall be used to fund the Virginia Birth Father Registry
206 established in Article 7 (§ 63.2-1249 et seq.) of this chapter.

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

212 **§ 63.2-1208. Investigations; report to circuit court.**

213 A. Upon consideration of the petition, the circuit court shall, upon being satisfied as to proper
214 jurisdiction and venue, immediately enter either an interlocutory order referring the case to a child-placing
215 agency to conduct a visitation and prepare a report of visitation or an order of reference referring the case
216 to a child-placing agency to conduct an investigation and prepare a report of investigation, unless no
217 investigation is required pursuant to this chapter. In agency adoption cases for which an interlocutory
218 order is required, the petition shall contain the provisional consent of the child-placing agency. The court
219 shall enter the interlocutory order or order of reference ~~prior to or~~ concurrently with the entering of an
220 order of publication, if such is necessary. Upon entry of the interlocutory order or order of reference, the
221 clerk shall forward a copy of the interlocutory order or order of reference, the petition, and all exhibits
222 thereto to the Commissioner and the child-placing agency retained to provide investigative, reporting, and
223 supervisory services. If no Virginia agency was retained to provide such services, the interlocutory order
224 or order of reference, petition, and all exhibits shall be forwarded to the local director of social services of
225 the locality where the petitioners reside or resided at the time of filing the petition or had legal residence
226 at the time the petition was filed.

227 B. Upon receiving a petition and interlocutory order or order of reference from the circuit court,
228 the applicable agency shall make a thorough investigation of the matter and report thereon in writing, in
229 such form as the Commissioner may prescribe, to the circuit court. In cases in which an order of reference
230 was received, the agency shall file a report of investigation with the circuit court within 60 days after the
231 copy of the petition and all exhibits thereto are forwarded. In cases in which an interlocutory order was
232 received, the agency shall file a report of visitation within 30 days after the completion of all placement
233 visits required pursuant to § 63.2-1212. In agency adoption cases, the agency shall file its final agency
234 consent with the report. A copy of the applicable report to the circuit court shall be served on the
235 Commissioner by delivering or mailing a copy to him on or before the day of filing ~~the~~ such report with
236 the circuit court. On the applicable report to the circuit court there shall be appended either acceptance of
237 service or certificate of the local director, or the representative of the child-placing agency, that copies
238 were served as this section requires, showing the date of delivery or mailing. The circuit court shall

239 expeditiously consider the merits of the petition upon receipt of the applicable report and enter a final
240 order of adoption.

241 C. If the applicable report is not made to the circuit court within the periods specified, the circuit
242 court may proceed to hear and determine the merits of the petition and enter such order or orders as the
243 circuit court may deem appropriate.

244 D. The visitation or investigation requested by the circuit court in an interlocutory order or order
245 of reference shall include, in addition to other inquiries that the circuit court may require the child-placing
246 agency or local director to make, inquiries as to (i) whether the petitioner is financially able, except as
247 provided in Chapter 13 (§ 63.2-1300 et seq.) ~~of this title~~, morally suitable, in satisfactory physical and
248 mental health and a proper person to care for and to train the child; (ii) what the physical and mental
249 condition of the child is; (iii) why the parents, if living, desire to be relieved of the responsibility for the
250 custody, care, and maintenance of the child, and what their attitude is toward the proposed adoption; (iv)
251 whether the parents have abandoned the child or are morally unfit to have custody over him; (v) the
252 circumstances under which the child came to live, and is living, in the physical custody of the petitioner;
253 (vi) whether the child is a suitable child for adoption by the petitioner; (vii) what fees have been paid by
254 the petitioners or on their behalf to persons or agencies that have assisted them in obtaining the child; and
255 (viii) whether the requirements of subsections E and F have been met. Any report made to the circuit court
256 shall include a recommendation as to the action to be taken by the circuit court on the petition. A copy of
257 any report made to the circuit court shall be furnished to counsel of record representing the adopting parent
258 or parents. When the investigation reveals that there may have been a violation of § 63.2-1200 or § 63.2-
259 1218, the local director or child-placing agency shall so inform the circuit court and the Commissioner.

260 E. The applicable report shall include the relevant physical and mental history of the birth parents
261 if known to the person making the report. The child-placing agency or local director shall document in the
262 report all efforts they made to encourage birth parents to share information related to their physical and
263 mental history. However, nothing in this subsection shall require that an investigation of the physical and
264 mental history of the birth parents be made.

265 F. The applicable report shall include a statement by the child-placing agency or local director that
266 all reasonably ascertainable background, medical, and psychological records of the child, including
267 whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been
268 provided to the prospective adoptive parent(s). The report also shall include a list of such records provided.

269 G. The court may enter a final order of adoption under the following circumstances:

270 1. In cases in which an order of reference was entered and the report of investigation has been
271 received, if (i) the child has been placed in the physical custody of the petitioner by a child-placing agency;
272 (ii) the placing or supervising agency certifies to the circuit court that the child has lived in the physical
273 custody of the petitioner continuously for a period of at least six months immediately preceding the filing
274 of the petition and has been visited by a representative of such agency at least three times within a six-
275 month period, provided that there are not less than 90 days between the first and last visit; and (iii) the
276 court is of the opinion that entry of a final order of adoption would otherwise be proper.

277 2. In cases in which an interlocutory order was entered and both the report of visitation and final
278 agency consent have been received, if (i) the child has been placed in the physical custody of the petitioner
279 by a child-placing agency; (ii) the placing or supervising agency certifies to the circuit court that the child
280 has been visited by a representative of such agency at least three times within a six-month period, provided
281 that there are not less than 90 days between the first and last visit; and (iii) the court is of the opinion that
282 entry of a final order of adoption would otherwise be proper.

283 In cases in which the court entered either an interlocutory order or order of reference and the child
284 was placed by a child-placing agency, the circuit court may, for good cause shown, omit the requirement
285 that the three visits be made within a six-month period, provided that not less than three visits were made.

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

289 **§ 63.2-1210. Probationary period, interlocutory order and order of reference not required**
290 **under certain circumstances.**

291 The circuit court may omit the probationary period and the interlocutory order and enter a final
292 order of adoption under the following circumstances:

293 1. If the child is legally the child by birth or adoption of one of the petitioners and the circuit court
294 is of the opinion that the entry of an interlocutory order would otherwise be proper. In such cases, the
295 court may also omit the order of reference if the petitioners meet the requirements set forth in § 63.2-1241.

296 2. If one of the petitioners is a ~~step parent~~ stepparent of the child and the circuit court is of the
297 opinion that the entry of an interlocutory order would otherwise be proper. The court may omit the order
298 of reference if the petitioners meet the requirements of § 63.2-1241.

299 ~~3. After receipt of the report required by § 63.2-1208, if the child has been placed in the physical~~
300 ~~custody of the petitioner by a child placing agency and (i) the placing or supervising agency certifies to~~
301 ~~the circuit court that the child has lived in the physical custody of the petitioner continuously for a period~~
302 ~~of at least six months immediately preceding the filing of the petition and has been visited by a~~
303 ~~representative of such agency at least three times within a six month period, provided there are not less~~
304 ~~than 90 days between the first visit and the last visit, and (ii) the circuit court is of the opinion that the~~
305 ~~entry of an interlocutory order would otherwise be proper. The circuit court may, for good cause shown,~~
306 ~~in cases of placement by a child placing agency, omit the requirement that the three visits be made within~~
307 ~~a six month period.~~

308 4. After receipt of the report of investigation, if the child has been in physical custody of the
309 petitioner continuously for at least three years immediately prior to the filing of the petition for adoption,
310 and the circuit court is of the opinion that the entry of an interlocutory order would otherwise be proper.

311 ~~5-4.~~ After receipt of the report of investigation, if the child has been legally adopted according to
312 the laws of a foreign country with which the United States has diplomatic relations and if the circuit court
313 is of the opinion that the entry of an interlocutory order would otherwise be proper, and the child (i) has
314 been in the physical custody of the petitioners for at least one year immediately prior to the filing of the
315 petition and a representative of a child-placing agency has visited the petitioner and child at least once in
316 the six months immediately preceding the filing of the petition or during its investigation pursuant to §
317 63.2-1208 or (ii) has been in the physical custody of the petitioners for at least six months immediately

318 prior to the filing of the petition, has been visited by a representative of a child-placing agency or of the
319 local department three times within such six-month period with no fewer than ninety days between the
320 first and last visits, and the last visit has occurred within six months immediately prior to the filing of the
321 petition.

322 ~~6-5.~~ After receipt of the report of investigation, if the child was placed into Virginia from a foreign
323 country in accordance with § 63.2-1104, the adoption was not finalized pursuant to the laws of that foreign
324 country, and the child has been in the physical custody of the petitioner for at least six months immediately
325 prior to the filing of the petition and has been visited by a representative of a licensed child-placing agency
326 or of the local department three times within the six-month period with no fewer than 90 days between
327 the first and last visits. The circuit court may, for good cause shown, in cases of an international placement,
328 omit the requirement that the three visits be made within a six-month period.

329 **§ 63.2-1228. Forwarding of petition.**

330 Upon the filing of the petition, the circuit court shall, upon being satisfied as to proper jurisdiction
331 and venue, immediately enter an interlocutory order or an order referring the case to a child-placing agency
332 to conduct an investigation and prepare a report pursuant to § 63.2-1208. Upon entry of the interlocutory
333 order or the order of reference, the court shall forward a copy of the petition and all exhibits thereto to the
334 Commissioner and to the agency that placed the child. In cases where the child was placed by an agency
335 in another state, or by an agency, court, or other entity in another country, the petition and all exhibits
336 shall be forwarded to the local director or licensed child-placing agency, whichever agency completed the
337 home study or provided supervision. If no Virginia agency provided such services, or such agency is no
338 longer licensed or has gone out of business, the petition and all exhibits shall be forwarded to the local
339 director of the locality where the petitioners reside or resided at the time of filing the petition, or had legal
340 residence at the time of the filing of the petition.

341 **§ 63.2-1241. Adoption of child by spouse of birth or adoptive parent or other person with**
342 **legitimate interest.**

343 A. In cases in which the spouse of a birth parent or parent by adoption or a person with a legitimate
344 interest who is not the birth parent of a child wishes to adopt the child, the birth parent or parent by

345 adoption and such parent's spouse or other person with a legitimate interest may file a petition for adoption
346 in the circuit court of the county or city where the birth parent or parent by adoption and such parent's
347 spouse or other person with a legitimate interest reside or the county or city where the child resides. The
348 petition shall be the joint petition of the birth parent or parent by adoption and such parent's spouse or
349 other person with a legitimate interest, but the birth parent or parent by adoption shall unite in the petition
350 for the purpose of indicating consent to the prayer thereof only. The petition shall also state whether the
351 petitioners seek to change the name of the child.

352 B. The court may order the proposed adoption and change of name without referring the matter to
353 the local director if (i) the birth parent or parent by adoption, other than the birth parent or parent by
354 adoption joining in the petition for adoption, is deceased; (ii) the birth parent or parent by adoption, other
355 than the birth parent or parent by adoption joining in the petition for adoption, consents to the adoption in
356 writing and under oath; (iii) the acknowledged, adjudicated, presumed, or putative father denies paternity
357 of the child; (iv) the birth mother swears under oath and in writing that the identity of the father is not
358 reasonably ascertainable; (v) the child is the result of surrogacy and the birth parent, other than the birth
359 parent joining in the petition, consents to the adoption in writing; (vi) the parent by adoption joining in
360 the petition was not married at the time the child was adopted; or (vii) the child is 14 years of age or older
361 and has lived in the home of the person desiring to adopt the child for at least five years. However, if the
362 court in its discretion determines that there should be an investigation before a final order of adoption is
363 entered, the court shall refer the matter to the local director for an investigation and report to be completed
364 within such time as the circuit court designates. If an investigation is ordered, the circuit court shall
365 forward a copy of the petition and all exhibits thereto to the local director and the provisions of § 63.2-
366 1208 shall apply.

367 C. If an acknowledged, adjudicated, presumed, or putative birth parent or parent by adoption of a
368 child refuses to consent to the adoption of a child by the spouse of the other birth parent or parent by
369 adoption of the child or other person with a legitimate interest, the court shall determine whether consent
370 to the adoption is withheld contrary to the best interests of the child. If the court determines that consent
371 to the adoption is withheld contrary to the best interests of the child, the court may order the adoption and

372 change of name without referring the matter to the local director. However, if the court in its discretion
373 determines that there should be an investigation before a final order of adoption is entered, the circuit
374 court shall refer the matter to the local director for an investigation and report to be completed within such
375 time as the circuit court designates. The order of reference may include a requirement that the local director
376 investigate factors relevant to determining whether consent of a birth parent is withheld contrary to the
377 best interests of the child, including factors set forth in § 63.2-1205. If an investigation is ordered, the
378 circuit court shall forward a copy of the petition and all exhibits thereto to the local director and the
379 provisions of § 63.2-1208 shall apply.

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

382 E. In cases in which both petitioners are listed as the child's parents on the child's birth certificate,
383 the court shall permit the petitioners to obtain an adoption order under this section in order to secure the
384 child's legal parentage.

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

387 **§ 63.2-1250. Registration; notice; form.**

388 A. Any man who has engaged in sexual intercourse with a woman is deemed to be on legal notice
389 that a child may be conceived and that the man is entitled to all legal rights and obligations resulting
390 therefrom. Lack of knowledge of the pregnancy does not excuse failure to timely register with the Virginia
391 Birth Father Registry.

392 B. A man who desires to be notified of a placement of a child by a local board pursuant to § 63.2-
393 900, a proceeding for adoption, or a proceeding for termination of parental rights regarding a child that he
394 may have fathered shall register with the Virginia Birth Father Registry.

395 C. Failure to timely register with the Virginia Birth Father Registry shall waive all rights of a man
396 who is not acknowledged to be, presumed to be, or adjudicated the father to withhold consent to an
397 adoption proceeding unless the man was led to believe through the birth mother's misrepresentation that
398 (i) the pregnancy was terminated or the mother miscarried when in fact the baby was born or (ii) the child

399 died when in fact the child is alive. Upon discovery of the misrepresentation, the man shall register with
400 the Virginia Birth Father Registry within 10 days; however, a man shall not be permitted to register with
401 the Virginia Birth Father Registry if 180 days have elapsed from the date the circuit court entered the final
402 order of adoption or as otherwise prohibited pursuant to subsection F.

403 D. A man will not prejudice any rights by failing to register if:

404 1. A father-child relationship between the man and the child has been established pursuant to § 20-
405 49.1, 20-49.8, or if the man is a presumed father as defined in § 63.2-1202; or

406 2. The man commences a proceeding to adjudicate his paternity before a petition to accept consent
407 or waive adoption consent is filed in the juvenile and domestic relations district court, or before a petition
408 for adoption or a petition for the termination of his parental rights is filed with the court.

409 E. Registration is timely if it is received by the Department within ~~(i)~~ 10 days of the child's birth
410 ~~or (ii)~~ unless the time specified in subsection C or F applies. Registration is complete when the signed
411 registration form is first received by the Department. The signed registration form shall be submitted in
412 the manner prescribed by the Department.

413 F. In the event that the identity and whereabouts of the birth father are reasonably ascertainable,
414 the child-placing agency or adoptive parents shall give written notice to the birth father of the existence
415 of an adoption plan and the availability of registration with the Virginia Birth Father Registry. Such written
416 notice shall be provided by personal service ~~or by~~, certified mailing with proof of service, or express
417 mailing with proof of delivery to the birth father's last known address. Registration is timely if the signed
418 registration form is received by the Department within 10 days of personal service of the written notice or
419 within 13 days of the certified or express mailing date of the written notice. The personal service or
420 certified or express mailing may be completed either prior to or after the birth of the child. When written
421 notice is provided to a putative father before the birth of the child, the putative father may not register
422 with the Virginia Birth Father Registry more than 10 days after personal service of the written notice or
423 more than 13 days after the certified or express mailing date of the written notice.

424 G. The child-placing agency or adoptive parent(s) shall give notice to a registrant who has timely
425 registered of a placement of a child by a local board pursuant to § 63.2-900, a proceeding for adoption, or

426 a proceeding for termination of parental rights regarding a child. Notice shall be given pursuant to the
427 requirements of this chapter or § 16.1-277.01 for the appropriate adoption proceeding.

428 H. 1. The Department shall prepare a form for registering with the agency that shall require (i) the
429 registrant's name, date of birth and social security number; (ii) the registrant's driver's license number and
430 state of issuance; (iii) the registrant's home address, telephone number, and employer; (iv) the name, date
431 of birth, ethnicity, address, and telephone number of the putative mother, if known; (v) the state of
432 conception; (vi) the place and date of birth of the child, if known; (vii) the name and gender of the child,
433 if known; and (viii) the signature of the registrant. No form for registering with the Virginia Birth Father
434 Registry shall be complete unless signed by the registrant and the signed registration form is received by
435 the Department in the manner prescribed by the Department.

436 2. The form shall also state that (i) timely registration entitles the registrant to notice of a
437 proceeding for adoption of the child or termination of the registrant's parental rights, (ii) registration does
438 not commence a proceeding to establish paternity, (iii) the information disclosed on the form may be used
439 against the registrant to establish paternity, (iv) services to assist in establishing paternity are available to
440 the registrant through the Department, (v) the registrant should also register in another state if conception
441 or birth of the child occurred in another state, (vi) information on registries of other states may be available
442 from the Department, (vii) the form is signed under penalty of perjury, and (viii) procedures exist to
443 rescind the registration of a claim of paternity.

444 3. A registrant shall promptly notify the Virginia Birth Father Registry of any change in
445 information, including change of address. The Department shall incorporate all updated information
446 received into its records but is not required to request or otherwise pursue current or updated information
447 for incorporation in the registry.

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