

Date - July 1, 2022

Manual - Child and Family Services Manual, Chapter F, Adoption

Transmittal - # 301

The purpose of this transmittal is to provide new, revised, and clarified guidance for *Chapter F: Adoption* of the Child and Family Services Manual. Unless otherwise stated, the provisions included in this transmittal are effective in July 2022.

Changes to the manual incorporate new state laws as well as state regulations, clarify existing guidance; and enhance guidance. Changes were also made throughout the manual to address grammatical issues or minor clarifications that are not included in the chart below.

The draft transmittal and manual are available internally on FUSION or to the public on the Virginia Regulatory Town Hall site:

FUSION at: <https://fusion.dss.virginia.gov/dfs/DFS-Home/Adoption/Adoption-Guidance>.

Virginia Regulatory Town Hall at: <https://townhall.virginia.gov/index.cfm>

The current version of this chapter of guidance is available to the public at:

<https://www.dss.virginia.gov/family/ap/index.cgi>

Significant changes to the manual are as follows:

Section(s) Changed	Significant Changes	Reason for Change
Section 4.8.1 Submitting a request for change	This subsection was revised to add two exceptions for negotiating Adoption Assistance Agreements (AAA): those executed prior to October 2013, when the terms and conditions do not have end dates, and for provider or provider rate changes that do not exceed thirty percent.	This revision was requested by the Assistance Negotiators. It was previously included in a prior release of the guidance.
Section 5.8 Report of inquiries	This subsection was revised to add an additional disposition for the Report of Inquiries for use when the Commissioner's Review is required.	This addition was made to provide direction to child placing agencies (CPA's) on how to proceed when a birth parent is mentally incapacitated or deceased.
Section 6 Non-agency placement adoptions	This section was revised throughout to add the word "must" with respect to requirements that are mandatory and to change the term "Report of Home Study" to "Home Study."	This revision is necessary to align this chapter with all other chapters of the Child and Family Services manual.

Section 6.2 Reports required by the court	This subsection was added to outline the two types of reports required by the court (the Report of Investigation and the Report of Visitation).	This change was prompted by House Bill (HB) 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1 Report of Investigation	This subsection was added to remove the courts' discretion to enter the Order of Reference before entering the Order of Publication. The court must now enter them both concurrently when an order of publication is required.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1.1 Requirements for a Report of Investigation	This subsection was added to outline the requirements necessary for completing a Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1.2 Submitting the Report of Investigation	This subsection was added to provide directions for submitting the Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.2 Report of Visitation	This subsection was added to provide additional requirements needed for the Report of Visitation. It also revises the timeline for submitting the final report and increases the period for sending the Report of Visitation to the court from 15 days to 30 days after the last visit. The subsequent subsections were renumbered due to the addition of the new subsection.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.1 Timeline for parental placement adoption	This subsection was revised to include the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.3 Duties of the attorney in parental placement adoption in juvenile court	This subsection was revised to add information regarding requirements for notifying fathers of adoption plans and about the availability of registration in the Virginia Birth Father Registry.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.4 Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court	This subsection was revised to add the provision granting the Commissioner authority to remove a child from the home if the child is subjected to unwholesomeness influences, neglect, or mistreatment.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.6 Duties of the circuit court in a parental placement	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of

adoption after the adoption petition is filed in circuit court		the Virginia General Assembly.
Section 6.4.9.2 Acknowledge the Interlocutory Order or Order of Reference	This subsection was revised to add the Order of Reference and Report of Investigation as options for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.9.3 Supervision of the placement	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.9.4 Make supervisory visits	This subsection was revised to add that the circuit court may, with good cause shown, omit the requirement that three visits be made within a six-month period.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.5.3 Review the Interlocutory Order or Order of Reference	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.5.6 Complete the required report	This subsection was revised to change the title of the subsection and add timeframes regarding submission of the Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.6 Duties of the attorney	This subsection was revised to add information regarding requirements for notifying fathers of adoption plans and about the availability of registration in the Virginia Birth Father Registry.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.7 Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years	This subsection was revised to update the timeline for notifying fathers of pending adoption plans.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.2 Review the petition and the Order	This subsection was revised to include the Interlocutory Order as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.3 Make inquiries during the investigation	This subsection was revised to add the Report of Visitation provisions to the subsection.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.5 Prepare the required report	This subsection was revised to change the title of the subsection so that it	This change was prompted by HB 869

	applies to both the Report of Investigation and Report of Visitation.	from the 2022 Session of the Virginia General Assembly.
Section 6.7.3 Report of Visitation	This subsection was revised to increase the period for sending the Report of Visitation to the court from 15 days to 30 days after the last visit.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.8.3.2 Review the petition and Order	This subsection was revised to add the Interlocutory Order as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.8.3.4 Prepare the required report	This subsection was revised to change the title of the subsection so that it applies to both the Report of Investigation and Report of Visitation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 8.5.1 Timely registration	This subsection was revised to add that registration with the Virginia Birth Father Registry is untimely if 180 days have passed from the date the circuit court entered the final Order of Adoption.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 8.8 Compliance with notice provisions	This subsection was revised to add that written notice must be provided by personal service, certified mail with proof of service, or express mailing with proof of delivery to the fathers' last known address.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.

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4

POST-ADOPTION SERVICES

TABLE OF CONTENTS

4.1	Introduction	3
4.2	Post Adoption Support and Preservation.....	4
4.3	Program Service Models	5
4.3.1	Community-Based Resources	5
4.3.2	Post-Adoption Consortium (PAC).....	6
4.3.3	Prevention and In-Home Services.....	7
4.3.4	In-Home Services	7
4.3.5	Promoting Safe and Stable Families	8
4.3.6	Children's Services Act (CSA).....	9
4.3.7	Funding Special Services	10
4.4	Types of Special Services	11
4.4.1	Educational Advocate	11
4.4.2	Tutoring Services.....	12
4.4.3	Respite Services.....	12
4.4.4	Child Care.....	13
4.4.5	Level C Psychiatric Residential Treatment Facilities (PRTFs)	17
4.5	Providing Post-Adoption Services	23
4.5.1	LDSS Responsibilities	23
4.5.2	Who is Eligible?	24
4.5.3	Assessing the Child and Family	25
4.6	Educational Services in the Public School System	26
4.7	Postsecondary Education and Training.....	28
4.7.1	Education Training Voucher Program (ETV).....	28

4.7.2	Foster my Future / Chafee Services	29
4.7.3	Independent Living Services (IL)	29
4.7.4	Defraying the Cost of College.....	29
4.8	Renegotiating Adoption Assistance.....	30
4.8.1	Submitting a Request for Change	31
4.8.2	Timeframe for Acting on Request.....	32
4.8.3	Assessing Overall Request for Addendum.....	32
4.8.4	Assessing Relevant Components of Adoption Assistance	33
4.8.5	Executing the Addendum	34
4.9	Making Changes to the Adoption Assistance Agreement	34
4.9.1	Address Changes	35
4.9.2	Single Adoptive Parent Marries	35
4.9.3	Adoptive Parents Divorce	36
4.10	Adoption Dissolution	36
4.10.1	Role of LDSS Prior to Adoption Dissolution.....	37
4.10.2	Role of LDSS During Adoption Dissolution.....	38
4.10.3	Adoption Assistance and Adoption Dissolution	38
4.10.4	Obtaining Information After Adoption Dissolution	39

4

PROVIDING SUPPORT POST-ADOPTION

4.1 Introduction

Children placed by the Local Department of Social Services (LDSS) often have special needs that may challenge an adoptive family's skill set and require specialized services after the adoption has finalized. The Department maintains a commitment to these children and their adoptive families until the child reaches age 18 or age 21. The LDSS assumes an obligation to maintain the adoptive placement by delivering post-adoption services to children and families adopted through public and private agencies, both domestic and international, after the adoption finalizes.

Post-adoption services provide a wide range of supports and services designed to respond to the family's needs after the finalization of the adoption. Adoptive families may request assistance for various needs, including managing loss and grief, trust and attachment, school adjustments, post-institutionalization transitions, and making and maintaining birth family connections.

The LDSS must incorporate adoption services and support into multiple areas of practice, including:

- Early assessment of children and youth; and
- Gathering thorough background information on each child to share with the family during the full-disclosure period.

This work involves both:

- Preparing families thoroughly for adoption, and
- Providing families with information about available support before they finalize an adoption.

This approach will help ensure that adoptive families are ready to meet their children's needs and continue supporting their child and family long after the adoption is finalized

[\(National Quality Improvement Center for Adoption and Guardianship Support and Preservation \[QIC-AG\], 2015a\).](#)

By assuring prospective adoptive parents that they will have needed support and services, LDSS can help alleviate a concern that might otherwise prevent families from adopting children from foster care.

4.2 Post Adoption Support and Preservation

After the finalization of an adoption, children become members of their respective communities and are entitled to receive all services and resources available to children in the community. There are many different types of support available to assist children and families. It is the responsibility of the child placing agency (CPA) to prepare adoptive parents for the challenges they may face and assist them in understanding how and where to seek help. This should be an ongoing process. The adoptive parents' awareness and basic knowledge of adoption can be enhanced during the preparation. However, they will likely be most receptive to specialized training or receiving other services once they have a child and can directly apply the knowledge to their family situations. The necessary expertise, understanding, perspective, and skills they need to successfully raise their adopted child are likely to be acquired through post-adoption services.

Adoptive families have a wide range of needs for services and supports, which vary in frequency from occasional support to intensive interventions. The CPA should communicate the array of post-adoption resources and services that are available, based on the family's location and type of adoption (private or public). These include informal resources, such as internet courses, and more formal affiliations with adoption organizations and/or therapeutic support groups. The services commonly requested by families can be grouped into the following categories:

- Educational and informational services
- Clinical services
- Material assistance
- Support networks

See [Job Aid: Providing Adoption Support and Preservation Services](#) on the FUSION page, which explains each of these categories in more detail.

Common barriers identified by agencies that impact their ability to provide effective services and impact families being able to access those services include:

- Insufficient availability of post-adoption services,
- Scarcity of adoption-competent providers,

- Families' limited knowledge of service availability or effectiveness,
- Reluctance among parents that sometimes stems from unrealistic expectations and not wanting to appear as inadequate,
- Children or youth not cooperating with obtaining services,
- Affordability, and
- Limited accessibility due to location or hours.

The goal of Virginia's post-adoption program is to reflect a continuum of services from pre-permanency education and the preparation of parents through post-permanency crisis intervention.

4.3 Program Service Models

Adoption support and preservation services are delivered through several service models, including the following:

- Community Based Resources;
- Post-Adoption Consortium;
- [Prevention Services/ In-Home Services](#);
- [Promoting Safe and Stable Families](#);
- [Children's Services Act \(CSA\)](#); and
- [Funding for Special Services](#).

The LDSS must use the [Service Decision Making Tool](#) to determine the most appropriate course of action for families in need.

4.3.1 Community-Based Resources

Community Services Boards (CSB), health departments, and other governmental agencies often provide supportive services, which are available to residents of their respective jurisdictions. Families should explore using local services to assist in meeting their needs. While some needs are met through the family or community's resources, others require adoption-specific intervention. Specific programs designed to help children and families that are community-based, include:

- [Care Connection for Children](#) - Care Connection for Children is a statewide network of centers of excellence for children and youth with special health care

needs (CYSHCN) that provide leadership in the enhancement of specialty medical services; care coordination; medical insurance benefits evaluation, and coordination; management of the CYSHCN Pool of Funds; information and referral to CYSHCN resources; family-to-family support; and training and consultation with community providers on CYSHCN issues.

Children who are uninsured or underinsured are eligible to receive services from birth to age 21 years. The program covers children with special health care needs who have disorders that have a physical basis that has or are expected to last at least 12 months.

- [Infant Toddler Connection of Virginia](#) - The Infant & Toddler Connection of Virginia provides early intervention supports and services to infants and toddlers from birth through age two who are not developing as expected or have a medical condition that can delay normal development.

Early intervention supports and services focus on increasing the child's participation in family and community activities important to the family.

In addition, supports and services focus on helping parents and other caregivers know how to find ways to help the child learn during everyday activities. These supports and services are available for all eligible children and their families regardless of the family's ability to pay.

4.3.2 Post-Adoption Consortium (PAC)

The PAC is a program sponsored by the Virginia Department of Social Services, at no expense to families, to provide a variety of post-adoption services to children and families. Services are available to all families who have finalized adoptions of children ages 0 – 18 years old and reside in Virginia.

Services include:

- Information, Referrals, and Advocacy;
- Case Management;
- Respite;
- Crisis Support;
- Training for Adoptive Parents; and
- Parent Support Groups

For additional information on the PAC, contact your Regional Consultant.

4.3.3 Prevention and In-Home Services

The goal of prevention and in-home services is to strengthen families and ensure their children's safety, permanency, and well-being. Services are designed to prevent the occurrence or reoccurrence of child abuse/neglect from any caretaker and to prevent out-of-home care, including foster care.

The benefits of providing services to families in a strength-based, trauma-informed system that promotes protective factors include the following:

- Families who identify their needs and seek help through preventive services are more likely to benefit quickly from services, and their children are less likely to be at risk of abuse and neglect and out-of-home care;
- Early involvement with the family reduces the likelihood of abuse and neglect, maintains permanency for the child, and preserves sibling groups;
- Strength-based family engagement empowers family members and increases their opportunity to be self-sufficient;
- Training and education to help parents understand child development, behavior management, stress management, attachment, and nurturing reduces adverse behavior problems and family conflict and improves family relationships.

Prevention services must be offered to all adoptive families faced with the possibility of an out-of-home placement for their child or those who are considering adoption dissolution.

4.3.4 In-Home Services

In-Home services play an integral role in targeting resources and services that prevent entry into foster care and help children remain safely in their homes or with relative/kin caregivers. This work requires a skill set that focuses on family engagement, identifying individualized needs, creating and monitoring service plans and progress with families while continually assessing safety, risk, and protective capacities; and enhancing broader protective factors.

Attention to In-Home services case practice at both the supervisor and worker levels is needed to promote quality and uniform practice in the prevention of foster care.

The development of this framework is aligned with Virginia's broader strategic efforts which reflect key priorities in child welfare such as the [Child and Family Services Plan \(CFSP\)](#), [Child and Family Services Review \(CFSR\)](#), [Program Improvement Plan \(PIP\)](#), and [Family First](#) initiatives.

In-Home Services provide interventions and services to families that are based on the following principles:

- Addressing child safety and risk factors;
- Preserving families by maintaining children safely in their own homes or with relative/kin caregivers in their communities;
- Preventing further abuse or neglect by strengthening the family's capacity to protect and nurture their children;
- Interventions and services that reduce or eliminate re-traumatization to children and families;
- Delivering interventions and services within the context of the family's own community culture and the child's current living arrangement; and
- Engaging children, youth, and families in the planning process while producing better well-being, safety, and permanency outcomes;

As with prevention services, in-home services must be offered to all adoptive families if it is deemed most appropriate to best meet the family's needs.

4.3.5 Promoting Safe and Stable Families

The Promoting Safe and Stable Families (PSSF) Program is designed to assist children and families in resolving crises, connecting with necessary and appropriate services, and remaining safely together in their own homes whenever possible. This program helps more than 15,000 children and families each year. Services are provided to meet the following objectives:

- Prevent or eliminate the need for out-of-home placements of children;
- Promote family strength and stability;
- Enhance parental functioning;
- Protect children; and
- Assess and make changes in state and local service delivery systems.

The following services are available:

- **Family Preservation**

This helps families alleviate crises that might lead to out-of-home placements of children because of abuse, neglect, or parental inability to care for their

children. These services help maintain the safety of children in their own homes, support families preparing to reunify or adopt, and assist families in obtaining other services to meet multiple needs.

- **Family Support**

These are voluntary, preventive activities to help families nurture their children. These services are designed to alleviate stress and help parents care for their children's well-being before a crisis occurs. They connect families with available community resources and support networks that assist parents with child-rearing. Family support activities include respite care for parents and caregivers, early development screening of children to identify their needs, tutoring, health education for youth, and a range of center-based activities. Services often are provided at the local level by community-based organizations.

- **Family Reunification**

This facilitate reunification of the child safely and appropriately within a timely fashion and **during the 15-month period that begins on the date that the child returns home**. Services are for the child and the parents or primary caregiver. Such services may include individual, group, and family counseling; inpatient, residential, or outpatient substance abuse treatment services; mental health services; assistance to address domestic violence; services designed to provide temporary childcare and therapeutic services for families, including crisis nurseries; peer-to-peer mentoring and support groups for parents and primary caregivers; services and activities designed to facilitate access to and visitation of children by parents and siblings; and transportation to and from any of these services and activities.

- **Adoption Promotion and Support**

These services encourage adoption from the foster care system when adoption is in the best interest of the child and, includes such activities as pre and post-adoptive services and activities designed to expedite the adoption process and support adoptive families.

4.3.6 Children's Services Act (CSA)

The CSA establishes a collaborative system of services and funding that is child-centered, family-focused, and community-based to assess and meet the strengths and needs of troubled and at-risk youth and their families in Virginia.

The purpose of CSA is to:

- Ensure that services and funding are consistent with the Commonwealth's policies of preserving families and providing appropriate services in the least restrictive environment while protecting the welfare of children and maintaining the safety of the public;
- Identify and intervene early with young children and their families who are at risk of developing emotional or behavioral problems, or both, due to environmental, physical, or psychological stress;
- Design and provide services that are responsive to the unique and diverse strengths and needs of troubled youths and families;
- Increase interagency collaboration and family involvement in service delivery and management;
- Encourage public and private partnership in the delivery of services to troubled and at-risk youths and their families; and
- Provide communities flexibility in using funds and authorize communities to make decisions and be accountable for providing services in concert with these purposes.

Statutory Authority: [§ 2.2-5200](#) of the Code of Virginia.

4.3.7 Funding Special Services

A special service payment is a payment that is used to meet a service need of a child that cannot be met by the adoptive parents and is not covered under any other community services, program, or benefit for which the child would qualify. If the child receives any similar service from any other provider or funding source, a special service payment for a like service will not be approved, even if the child is found eligible to receive the service. Special service payments provide financial assistance for services and treatments directly related to special needs which existed prior to the time of the child's adoption ([22 VAC 40-201-161- E 2](#)).

Funding for special services is available for families who have been found eligible to receive special services and must be approved through a Virginia Adoption Assistance Agreement. For additional information on approval requirements for the use of funding for special services, see [Section 2: Adoption Assistance](#).

Special service payments must not be used for the following types of services and expenses:

- Legal fees and nonrecurring adoption expenses;
- Boarding schools or private school placements or expenditures;

- Orthodontia treatment, unless related to the special needs identified on the original adoption assistance agreement or Addendum;
- Placements in therapeutic foster care (TFC) homes; and
- Placement in group homes.

For more information on distinguishing group homes from psychiatric residential treatment facilities, refer to the [DMAS](#) website. For approved behavioral health providers and program levels, refer to [Magellan of Virginia](#).

Effective February of 2022:

- All new requests for funding for the same type of special service, to include continuations of a current request, regardless of the signature/effective date of the original Adoption Assistance Agreement or Addendum, will not be approved for more than two years over the life of the adoption assistance case.
- Funding for all special services, regardless of when the original agreement was signed and effective, may be provided for up to a maximum of \$5,000 per calendar year for the total of all approved services; not to include expenses related to psychiatric residential treatment services, child care expenses, and tutoring. Existing Adoption Assistance Agreements that have services approved for the life of the case or extended periods are also excluded from the \$5,000 maximum.

4.4 Types of Special Services

Special services listed in this section are available to children and families who have Adoption Assistance Agreements that have been negotiated and have been approved to receive the identified service.

4.4.1 Educational Advocate

An educational advocate is a paid professional who is called in when the child is:

- Not receiving the free appropriate public education to which they are entitled;
- Not making educational progress, or;
- The Individualized Educational Plan (IEP) for the child is not being followed.

The adoptive parent must demonstrate they have attempted to resolve the educational issue without an educational advocate and use the established Individualized Education Program process at the school and other available resources. The Virginia Department of Education (VDOE) website guides special education services at http://www.doe.virginia.gov/special_ed/index.shtml.

4.4.2 Tutoring Services

Limited payment for tutoring may be provided for any child, ages six and older, to improve poor grades (D or below), only when related to the particular need identified on the original adoption assistance agreement or amended adoption assistance agreement. This may be in addition to any reasonable accommodations, which may or may not be identified in a child's IEP or 504 plan, if related or specific to the condition written on the child's Adoption Assistance Agreement.

Tutoring must:

- Be specific to a subject area;
- Include an estimate of the length of time the tutoring will be needed;
- Occur outside of regular school hours for the child's enrolled school; and
- The child should display marked improvements, indicated by a higher overall grade and test scores.

Tutoring Approvals:

- Must be negotiated and approved by the Assistance Negotiator before beginning the service.
- Tutoring approvals are not to exceed 60 hours annually at \$50 an hour.
- Tutoring must be negotiated and approved by the Assistance Negotiator before beginning the service.
- The family will submit the child's report card, to the LDSS, within 30 days of receipt of the report card.

Note: Tutoring must not be reimbursed when provided by a current household member or immediate family member of the adoptive household or provided in advance of a signed and effective adoption assistance agreement or Addendum.

4.4.3 Respite Services

Respite care is a support service that offers short-term relief to adoptive families by providing substitute care for the adoptive parent's child with special needs. The goal

of respite care for families is to reduce adoptive home disruptions and assist in maintaining the permanent placement for the child.

The following requirements must be met:

The LDSS must assure that the respite care provider meets the required standard for an approved LDSS home as outlined in the [Local Department Resource, Foster, and Adoptive Home Approval Guidance](#) manual for approval of respite providers. If adoptive parents chose to use a provider who does not meet this standard, adoption assistance must not be approved.

Respite care can be approved for a maximum of 240 hours per calendar year, with no more than 15 days in any given 90 day period. The terms of respite care must be negotiated and entered into the Adoption Assistance Agreement or Addendum.

The terms of the respite care are specified on the Adoption Assistance Agreement or Addendum before the respite care service being utilized.

Respite care must not be approved for funding a temporary placement once the adoption has already disrupted or has been dissolved; or for funding a short-term placement of a child in a group home or therapeutic foster home for treatment.

4.4.4 Child Care

The lack of child care as a service has been recognized as a possible barrier to adoption for working parents and parents who are enrolled in an educational or training program. To address this barrier, child care assistance may be provided to working parents and parents enrolled in an academic or training program as a part of the maintenance funded payment.

There are two child care funding categories, maintenance, and special services. Maintenance funded child care assistance is based on both the child and the adoptive parent's needs, while special service funded child care is based solely on the child's needs.

Child care assistance may be authorized for up to 12 months and can be reassessed as needed until the child's 13th birthday for maintenance funded child care and until the child's 18th birthday for special services funded child care.

When the adoptive parents request child care services, and the LDSS establishes that child care is needed, the LDSS and the Assistance Negotiator must assess and negotiate the child care supplement with the adoptive parents based on the child care funding category.

4.4.4.1 Maintenance Funded Child Care

Only Adoption Assistance Agreements executed after July 1, 2017, will be eligible for maintenance funded child care. Addendums to Adoption Assistance Agreements executed prior to July 1, 2017 cannot be negotiated for maintenance funded child care.

To be eligible for maintenance funded child care, all of the following must be met:

- The child is 0-12 years of age. Child care terminates on the child's 13th birthday unless the child has a documented special need from a qualified medical professional warranting the continuation of child care, which will result in changing the category to special services funded child care.
 - If the child has a documented special need warranting continuation of child care and the funding category is changed to special services funded child care, the child must also be enrolled in a licensed therapeutic child day program that provides specialized care. See [4.4.4.2 Special Services Funded Child Care](#) for more information.
- Both adoptive parents must be working or enrolled in and attending an education or training program when the adopted child is not in school. If the adoptive parent is single, then the adoptive parent must be working or enrolled in and attending an education or training program when the adopted child is not in school.
 - School attendance includes occupational training such as cosmetology and technical schools.
 - If the parents are self-employed, their most recent tax returns or proof of earnings statements (within the last 90 calendar days) are required to be submitted as supporting documentation.
 - It is the responsibility of the LDSS to verify the parents' employment or school attendance. This verification must be sent with the referral request to the Assistance Negotiator and must be maintained in the Adoption Assistance case file.
 - The child care program may be a licensed or an unlicensed regulated program. For more information on approved program types, see <http://www.dss.virginia.gov/family/cc/index.cgi>, in the VDSS Child Care Manual. Verification of the license, registration, religious exemption, or certification must be sent with the referral request to the Assistance Negotiator.

- The monthly supplemental payment rate cannot exceed \$600 (six or more hours of child care each day) for children ages 0 – 6 years old or until enrolled in any kindergarten program, whichever occurs first. Child care assistance does not fund private kindergarten programs.
- The monthly supplemental payment rate cannot exceed \$300 for children 7 – 12 years of age.
- The monthly supplemental payment rate is based on the child's age and the family's documented needs. It does not increase based on the child's school instructional modality, i.e., virtual or in-person learning.
- Child care payments are negotiated and agreed upon on the Adoption Assistance Agreement for up to one year. The child care payments must be negotiated annually to evaluate the need for child care and the child's continued eligibility.
- The amount of maintenance funded child care will be included in the monthly amount for the support and care of the child.
- If the child receives title IV-E adoption assistance, the child care maintenance is funded by title IV-E; if the child has a State assistance agreement, the child care maintenance is funded by State adoption assistance. The title IV-E or state funded maintenance payments must not exceed the foster care payment that would otherwise be made for the child.
- To document maintenance funded child care payments in the child welfare information system, use the Assistance Screen and list child care as a maintenance type of payment.

Child care payments end annually, and a new entry is made each time the service is renewed.

This payment is separate from the basic maintenance payment. The LDSS will use guidelines set forth in [Section 2.16, Terminating Adoption Assistance](#), to ensure families receive adequate notice of termination. If the service is still needed, the LDSS must submit a request to the Assistance Negotiator and a new addendum must be created and effective, prior to continuing the service. To avoid a lapse in service, the LDSS should initiate discussion at least 90 days prior to the end of the service.

In the circumstance of the adoptive parent who becomes unemployed, for any reason, or the adoptive parent who completes or ends their educational or training program, child care services will continue for a maximum of six months

from the last day of employment or enrollment in an approved educational or training program. This will allow continuity of care for the child while allowing the adoptive parent to gain new employment.

4.4.4.2 Special Services Funded Child Care

Eligibility for special services child care occurs when the child care directly addresses severe cases of documented emotional disturbances, blindness, motor impairment, and health conditions such as insulin dependent diabetes. Because of the special need, the child requires special health surveillance, interventions, technologies, or facilities provided by a licensed therapeutic child day program.

All children can benefit from structure and socialization; however, this alone is not a qualifier for specialized child care.

If the child's needs can be met in a regular child care setting, maintenance funded child care must be approved; refer to subsection [4.4.4.1 Maintenance Funded Child Care](#) for eligibility criteria.

Special Services child care can continue until the youth's 18th birthday.

- The child care facility selected by the adoptive parents must be licensed as a therapeutic child day program and specialize in serving children with severe documented medical and behavioral health needs related to the child's special need.
- For licensed therapeutic child day programs, the following must occur:
 - The child day program's director and primary staff responsible for plan implementation must develop an individual service, education, or treatment plan for each child, and the plan must be implemented within 60 days after the first day of the child's attendance ([8VAC20-780-120](#)); and
 - The child's service, education, or treatment plan must be developed, reviewed, and revised every three months and rewritten annually by the director and primary staff responsible for plan implementation in partnership with the parent. A copy of the initial and subsequent plans is given to the child's parent ([8VAC20-780-120](#)).
 - A copy of the child's service, education, or treatment plan must be maintained in the child's adoption assistance record.

- To document special services funded child care payments in the child welfare information system, use the Assistance Screen and list child care as a special services type of payment.
- **Exception:** In the event the child is found eligible to receive specialized child care, the child must be approved to receive a maintenance funded child care payment, and maintenance funded child care rates apply if the following requirements are met:
 - The child is between the ages of 0 -12 years old, and
 - There is no provider available who is licensed as a therapeutic child day provider; or
 - The provider cannot meet the needs of the child due to age restrictions.

To execute this agreement, the Negotiation Report and the Adoption Assistance Agreement must be documented to state that the child meets the requirements for specialized child care; however, there is no provider available.

Child care needs will continue to be assessed annually to determine if the child still needs a specialized therapeutic setting. This annual assessment is not for the adoptive parents' employment or school enrollment status.

If it is determined the child no longer meets the requirements for specialized child care, then all maintenance funded child care eligibility requirements, including the adoptive parents' employment and school enrollment, must be met to continue receiving child care payments.

4.4.5 Level C Psychiatric Residential Treatment Facilities (PRTFs)

In some cases, psychiatric residential treatment allows an adoption to continue while keeping all parties safe. PRTF placements can only be made as a part of a plan for the return of the child to the adoptive family, and the family must actively participate in that plan. Active participation is defined as being physically present for all family therapy and other required therapy sessions, education meetings, visitation, transitional services, e.g., A child can only be placed at a Level C ([psychiatric residential treatment facility](#)) PRTF whose program is fully licensed and approved by the State to include its treatment and educational programs; provisional licensing for either service is not considered fully approved or licensed. The following documentation is needed to place a child in a PRTF using adoption assistance funding for payment:

- A Family Partnership Meeting to discuss and assess treatment needs, family engagement, and funding approval requirements;
- An [Addendum Request to the Assistance Agreement](#) form;
- A recommendation from the Family Assessment and Planning Team (FAPT) meeting or similar multidisciplinary team meeting held in the community of which the family resides, indicating that psychiatric residential treatment services are the least restrictive and most effective community based resource available to meet the child's needs. Recommendations must also include services and support to transition the child back home.
- After FAPT makes its recommendations, the FAPT no longer needs to provide additional assessments, conduct utilization reviews, or make service recommendations, unless required by CSA law and policies, or the LDSS and FAPT agree such actions will be beneficial for the child;
- A Certificate of Need by an independent physician certifying that outpatient care cannot meet the child's unique needs, appropriate treatment of the child's special needs requires services on an inpatient basis and at the Level C – Psychiatric Residential Treatment Facility level of care, under the direction of a physician and services can reasonably be expected to improve the child's special needs to prevent further regression. For the child who is not funded partly by CSA, the community services board in the locality where the adoptive parents reside provides the independent team certification;
- Recent child and family assessments that are consistent with the child's need for psychiatric residential treatment services. The assessments must include, but are not limited to, the Virginia Child and Adolescent Needs and Strengths Assessment (CANS) administered within the last 90 days, and it must indicate that psychiatric residential placement is the most appropriate and least restrictive level of care available to meet the child's needs;
- Recommendation for placement from the current Medicaid approval process in place, i.e. IACCT;
- Negotiation Report from the Assistance Negotiator approving the service request;
- A signed and effective Addendum to the Adoption Assistance Agreement.

If any of the required recommendations are not provided, or the recommendation does not support placement in the PRTF, special service payments must not be

used for funding the placement. The adoptive parents may choose to place the child using their own financial resources or an alternative funding resource.

In any case, adoption assistance will only cover costs associated with:

- The first 30 days of psychiatric residential treatment and
- Educational expenses related to the placement.

As a result, the family should seek services from a Medicaid or private insurance approved provider.

4.4.5.1 Determining Whether Residential Services are Covered

When exploring all available resources, the LDSS and adoptive parents must decide if the following resources are available to fund educational expenses related to the necessary psychiatric residential treatment service before considering funding for special services ([22VAC40-201-161 E 2 b \(2\)](#)):

- When the child's Individualized Education Plan (IEP) requires placement in a psychiatric residential treatment program for educational purposes, for children who reside in Virginia, the CSA (Children's Services Act) in the locality where the adoptive parents reside is responsible for all placement costs.
- When the child's IEP does not require placement in a psychiatric residential treatment program, and the child is placed in psychiatric residential treatment for non-educational purposes, the local school division in the locality where the adoptive parents reside is legally responsible for assuring the child's access to free and appropriate public education (FAPE). In such circumstances, the school division is responsible for determining and providing the services necessary for FAPE while the child is in the psychiatric residential placement. The adoptive parents may request that special services funds be used to cover any remaining educational costs.
- When the child is Medicaid eligible, Medicaid may cover residential treatment for the child who meets the Medicaid eligibility standard for medical necessity and is in a Medicaid-enrolled facility. With assistance from the LDSS, the adoptive parents must follow all requirements for Medicaid funding for placement in a children's psychiatric residential facility.
- When the child is not Medicaid eligible during the initial admission into a psychiatric residential treatment facility, the family should check with their own health insurance during the first 30 day period. If their health

insurance does not cover the costs, the adoptive parents may request that special services funds be used for the psychiatric residential treatment costs for the child's first 30 days of placement.

- If the child is placed in a psychiatric residential treatment facility for 30 days or longer, the adoptive parents should apply for Medicaid on behalf of the child to help cover the costs. For purposes of Medicaid eligibility, the child is considered not living with the adoptive parents at 30 days or more. The adoptive parents should submit the Medicaid application to the LDSS with which they entered into the adoption assistance agreement.

After assessing all other resources available to help pay for residential treatment and when there are remaining costs, the LDSS and adoptive parents must determine whether the adoptive parents can financially afford the remaining costs for the requested special service. If Medicaid and/or adoption assistance are the sole sources of funding used for payment, any documentation sent to the provider must specify that the placement is a non-CSA placement.

4.4.5.2 Convening a Family Partnership Meeting

When special service payments are used to pay for the educational expenses related to a child's psychiatric residential treatment, the LDSS must convene an FPM to engage the family, other significant adults, service providers, and community members (see Chapter E. Foster Care Manual, [Section 2.9](#)). The purpose of the meeting is to identify wraparound, family, and community services and supports that could prevent the psychiatric residential placement and if placement cannot be prevented, facilitate returning the child home at the earliest and most appropriate time, consistent with the child's needs. The LDSS should schedule this meeting when it is most beneficial for the child during the process. Consider the following:

- At the first indication the child is at risk of psychiatric residential placement;
- Prior to, or concurrently with, FAPT or the approved multidisciplinary team meeting;
- When assessing the child's needs initially for psychiatric residential treatment services;
- When reassessing the child's needs for continued psychiatric residential treatment;
- When planning the child's transition and return home.

4.4.5.3 Negotiating Psychiatric Residential Treatment Services

When the LDSS determines the child meets the requirements for psychiatric residential treatment services, the LDSS and Assistance Negotiator must negotiate special service payments with the adoptive parents and determine agreed upon terms.

In addition, the LDSS and adoptive parents must also discuss the following factors:

- The specific services and supports that meet the child's special needs to be provided, including:
 - Ongoing Maintenance Payments. If the adoptive parents are receiving basic and enhanced maintenance payments, the enhanced maintenance portion of the payment will be negotiated to zero dollars while the child is out of the home. The enhanced maintenance payment supplements the adoptive parent's finances due to their need to provide ongoing additional support and supervision. Once the child returns to the home, the LDSS must reinstate the enhanced maintenance payment at the agreed upon rate that was effective prior to the child's residential placement. The adoptive parent must sign an addendum to the Adoption Assistance Agreement prior to placement in the psychiatric residential facility, effective the first day of placement, and a new Addendum to the Adoption Assistance Agreement once the child returns home, effective the day the child returns home.
 - Wraparound, family, and community services and supports necessary to successfully transition the child home.
 - Appropriate educational services for the child. The adoptive parents must discuss with the child's school the child's educational needs and the most appropriate way to meet those needs.
 - Intensive care coordination services are arranged or provided by the CSB, when appropriate (visit the Department of Behavioral Health and Development Services' [website](#) for more information).
- The requirement of the adoptive parents to actively participate in the child's treatment and their plan to bring their child home.

4.4.5.4 Responsibilities of the Adoptive Parents

When special service payments are used for psychiatric residential treatment, adoptive parents are responsible for actively planning, supporting, and participating in service delivery for their child. The adoptive parents must:

- Provide the child emotional support during the transition, treatment, and service period;
- Participate in treatment planning, including:
 - Researching the most appropriate psychiatric residential facility for their child;
 - Obtaining pre-admission screening materials and providing all required information to meet Medicaid requirements when applicable;
 - Providing the psychiatric residential treatment facility relevant background and service history information about their child.
 - Arranging and participating in pre-placement visits with their child.
 - Negotiating rates and entering into a placement agreement with the service provider. The adoptive parents must provide the LDSS a copy of the agreement for the child's adoption assistance case record.
 - Arranging trial home visits to prepare for the child returning home.
 - Transitioning and returning the child home at the earliest and most appropriate time that addresses the child's needs.
- Participate actively in treatment and services at the psychiatric residential treatment facility, at home, and in the community.
 - Visit the child frequently and regularly based on the child's best interests and treatment plan. The adoptive parents must visit the child at least once each month and should visit more frequently.
 - Communicate frequently and continuously through phone calls, email, social media, and letters.
 - Help maintain important relationships for the child through arranging visits and frequent communication with family, friends, school, religious, spiritual, and other cultural and community connections.

Provide funds for the child's use during the placement (e.g., allowance, clothing, personal incidentals, and recreational activities). The agreed upon terms for specific responsibilities of the adoptive parents must be documented in the Addendum to the Adoption Assistance Agreement.

4.5 Providing Post-Adoption Services

Post-adoption services can be preventative and provided at the time of adoption finalization through ongoing supportive services and adoption assistance and they can be provided in times of crisis, as in adoption preservation services. The availability of post-adoption services must be discussed with the family prior to the finalization of the adoption. The [Full Disclosure Checklist for Adoption Families](#) must be provided to and reviewed with the adoptive family by the LDSS responsible for preparing the child and family for adoption. The checklist must be kept in the Adoption Assistance case record as evidence that the adoptive parent was provided information about the child and family's background, adoption assistance, and post-adoption services prior to adoption finalization. A copy must be given to the adoptive family.

All youth adopted from Virginia's foster care system, age 16 or older, with a special need identified on an [Adoption Assistance Agreement](#) must be provided the [Proof of Foster Care – Special Needs Adoption](#) form. This form is necessary for verifying the foster care status of the child at the time of the adoption and serves that purpose for various programs that are geared towards older youth adopted from state child welfare programs.

In addition to providing information about post-adoption services, the LDSS must also provide contact information for the agency representative that will be able to assist families with future needs that may arise. The representative must be familiar with services available to the family through the VDSS post-adoption consortium, LDSS and LCPA support, the community, and other service providers.

4.5.1 LDSS Responsibilities

The LDSS has specific responsibilities for each of the following:

- Evaluating and interpreting referral packet information and completing a strengths-based assessment with the child and family using the Child and Adolescent Needs and Strengths Assessment (CANS), as needed. Staff must be trained in administering and scoring the CANS.
- Assist the family in convening a team to include immediate and extended family members, service providers, and informal supports to form a collaborative care plan with clearly defined goals.

- Address the need for and develop, revise and monitor a crisis plan with family and team members.
- Ensure that parent and family involvement is maintained throughout the service period.
- Maintain an ongoing dialogue with the family and providers to assure that the philosophy of care is consistent and that there is progress toward service goals.
- Evaluate the progress and make adjustments as necessary.
- Maintain an up to date file record consisting of treatment summaries, payment and resource utilization records, case notes, legal documents and releases of information.
- Facilitate the closing of the service request and oversee the transition to any ongoing care.
- Use resources and available funding to ensure that services are based specifically on the needs of the child and family.
- Be able to locate and deliver strengths based family-centered, adoption, and culturally competent services.
- Be able to interpret psychiatric, psychological, and other evaluation data and use that information to form a collaborative plan of care.

4.5.2 Who is Eligible?

Children and families adopted through public and private agencies, both domestic and international, are all eligible for some form of post-adoption support. The type of support is based on the service requested.

The LDSS assumes an obligation to maintain the adoptive placement by delivering post-adoption services to children and families adopted through public and private agencies, both domestic and international, after the adoption finalizes.

Post-adoption services provide a wide range of supports and services designed to respond to the family's needs after the finalization of the adoption.

A family will be eligible if:

- There is at least one adopted child under the age of 18 or a child with an active Adoption Assistance Agreement;
- The child is residing in the home at the time of the referral;

- An adopted child is receiving treatment outside of the home; and the plan is to transition the child back into the home;
- The child's permanency was disrupted either because of the death or disability of the adoptive parent and
 - The child is residing in the home of an adult who expresses interest in becoming the adoptive parent at the time of the referral; or
 - The plan is to transition the child into the home of that adult; or
- The child was adopted internationally and the family is seeking support to maintain the adoptive placement.

To receive post-adoption support, an adopted child and the family must either have a child who was adopted, and they must either accept the service or express a willingness to begin receiving services. The following are types of needs that would be appropriate for Adoption Preservation Services:

- A child or children experiencing significant emotional or behavioral issues;
- A child experiencing loss/grief/separation issues; or
- A medical/organic/neurological disability, e.g., Fetal Alcohol Syndrome effects, mood disorders, attachment disorders, and other psychiatric diagnoses; and adjustment issues and stagnation in developmental stages related to adoption.

The LDSS must ensure that referrals are made to appropriate resources to meet the needs of families exploring all community resources and state and local programs where such referrals are applicable and when services are available.

4.5.3 Assessing the Child and Family

Services to the adoptive family must begin with a comprehensive assessment to identify the strengths and needs of the child and family. The LDSS must then, depending on the level of needs based on the assessment, work with the family to convene a team of people that may include supportive family members and/or friends, service providers within the community, and informal supports to form a collaborative plan of care with clearly defined goals. This can be accomplished through a Family Partnership Meeting, a Service Coordination Meeting, or a Treatment Team Meeting. Efforts must be made to deliver strengths based, family centered services that are culturally competent while maintaining ongoing dialogue and family participation to assure consistency and progress towards service goals, making adjustments as necessary.

The LDSS must determine the service needs by completing the following actions:

- Provide the adoptive parent with a service application;
- Within five calendar days, confirm there are no current reported safety threats to the child by reviewing the child welfare information system for all family members living in the household;
- Within 10 calendar days of receiving the case, make face-to-face contact with the adoptive parent and child to assess the identified needs of the child and family;
- To determine service needs, the LDSS must, at minimum, observe:
 - The adoptive parent and child in the home environment, and
 - The child's interactions between family members in the home;
- Obtain from the adoptive parent and child (as appropriate) the names of persons who can provide additional information on the child's needs;
- Obtain a completed [Authorization to Release Information](#) form to enable the LDSS to obtain additional information from physicians, mental health providers, school employees, or other service treatment providers;
- After obtaining authorization to release information, contact service and treatment providers, to understand the past and current services and treatment needs of the family and the child;
- Obtain expert evaluations, when appropriate, to determine specific service or treatment needs when a condition or behavior requires additional professional information regarding a person's functioning;
- Analyze the behaviors, conditions, and circumstances of the family to determine service or treatment needs based upon information gathered from the activities listed above; and
- Document the findings of the activities in the child welfare information management system.

4.6 Educational Services in the Public School System

The LDSS must explore all educational and related services provided by the public school system before using adoption assistance funds for services. According to the Virginia Department of Education, based on its statutes and regulations:

- Remedial education is designed to remedy, strengthen, and improve the academic achievement of students who demonstrate substandard performance. Some

remedial services may be available from the child's public school in the local school division.

- Special education is through the local school divisions. It is mandated by law to provide, without cost to the parent, specifically designed instruction and related services to meet the unique needs of children with disabilities, ages 2 through 21 (§ [22.1-214](#)).
- Special education may include instruction conducted in the classroom, home, hospital, institution, and other settings and instruction in physical education (§ [22.1-213](#), [34 CFR 300.39](#), and [8 VAC 20-81-10](#)). The term includes each of the following if it meets the requirements of the definition of special education:
 - Speech-language pathology services or any other related service, if the service is considered special education rather than a related service under state standards.
 - Vocational education.
 - Travel training.

Specifically designed instruction means adapting as appropriate to the needs of the eligible child the content, methodology, or delivery of instruction to address the unique needs of the child and to ensure access of the child to the general curriculum in order to meet the educational standards that apply to all children.

The school division's responsibility is limited to FAPE or to ensuring the provision of accommodations or activities on the IEP, which are designed to adapt the general curriculum to the child's needs. For specific details related to FAPE and VDOE regulations, refer to state regulations, laws, and policies on the [VDOE website](#).

Local school divisions are responsible for paying for services and placement identified on the IEP when the child is placed within the school system or regional special education program.

If the adoptive parents have any concerns or disagreements about the child's special education program or implementation of the special education procedures, they should first contact the director of special education in the local school division for resolution. If the resolution is not achieved at the local level, the adoptive parent may contact the VDOE's Dispute Resolution and Administrative Services unit. See the [VDOE website](#) for additional information. For more information about mediation, complaints, and due process hearings, refer to the [Division of Special Education and Related Services](#).

Section 504 means the section of the Rehabilitation Act of 1973, as amended, which is designed to eliminate discrimination on the basis of disability in any program or activity receiving federal financial assistance ([29 USC § 701 et seq.](#); [8 VAC 20-81-10](#)).

For additional information, see the VDOE's [Section 504: Keys to Implementation in Virginia's Schools](#). Adoptive parents should discuss with the child's school whether or how Section 504 may apply.

The [Parent Educational Advocacy Training Center \(PEATC\)](#) assists families of children with disabilities by providing education, information, and training. PEATC builds respectful, collaborative partnerships between schools, professionals, and the community to promote success in school and community life for children with disabilities.

The [Virginia Department of Education Transition Services](#) website provides support, information, and resources designed to improve the outcomes of students with disabilities in transition from middle/secondary education to postsecondary education and employment.

Private education: While payment for private school placements is not provided through adoption assistance; the adoptive parents may seek out private school options using alternative funds.

4.7 Postsecondary Education and Training

The adoptive parents may consider the costs of postsecondary education and training when assessing the child's needs for adoption assistance. The LDSS should inform the adoptive parents about the following resources that can help defray costs.

4.7.1 Education Training Voucher Program (ETV)

The ETV program provides federal and state funding to help eligible youth with expenses associated with college and postsecondary vocational training programs. Each eligible youth can receive funding of up to \$5,000 per year or the total cost of attendance per year, whichever is less. The ETV program can provide services to youth up to the age of 25.

ETV funds can be used to pay for things like tuition and fees, room and board, computers, software, computer accessories, books, and transportation.

Youth adopted from Virginia's foster care system after the age of 16 are eligible for the ETV program if they meet the eligibility requirements. For more information on the ETV program and the eligibility requirements, see Section E. Foster Care [Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17](#) or Fostermyfuture.com.

4.7.2 Foster my Future / Chafee Services

Chafee provided services are primarily education and training oriented and are intended to keep youth in school. At the same time, youth obtain life skills and participate in other life preparation activities and plans to promote a successful transition to adulthood. Chafee provides support for those youth whose adoptions were finalized at age 16 or older, and participation is voluntary.

The LDSS must provide, either directly or through contract, those services identified in the life skills assessment that is indicated to help the youth achieve independence. The case plan or Transitional Living Plan must identify and address the specific skill needs of the youth. Each youth receiving transitional services must be assessed annually using an appropriate life skills assessment tool; however, an individualized assessment must be conducted every six months to determine the youth's progress in acquiring basic life skills and the skills necessary for a successful transition to adulthood.

If a youth was in foster care on or after their 16th birthday and was adopted before their 18th birthday, they will be eligible for all Chafee funding except housing, until their 21st birthday.

For more information on Chafee services and supports the program provides, see Section E. Foster Care Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17.

4.7.3 Independent Living Services (IL)

Youth adopted from the foster care system at age 16 years and older are eligible for IL services; to include any IL program, clinic, or classes offered by VDSS, the LDSS, or Project Life. Adoptive parents are responsible for payment of any fees required for participation in various activities.

Adopted youth are not eligible to receive the Independent Living Stipend. For more information on the IL program, see [Section E. Foster Care Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17.](#)

4.7.4 Defraying the Cost of College

[Great Expectations](#) Youth who were adopted with special needs and have earned a high school diploma or GED qualify for the Great Expectations program. The grant can be used for earning a degree or for non-credit workforce programs.

The Great Expectations program will pair college bound youth with an adult coach at one of 21 community colleges throughout the state. The youth and

coach work together to assess the youth's skills and interests, talk about the youth's future, and make a plan for enrolling in college.

As long as the youth is enrolled for at least six credits, they do not have to repay the grant. If the youth drops below six credits, they will lose eligibility and must repay the grant. For more information on the Great Expectations program, visit www.greatexpectations.vccs.edu and Section E. Foster Care [Chapter 13 Achieving Permanency for Older Youth: Working with Youth 14-17. Find a participating college.](#)

- [Foster Care to Success](#) provides college funding and support for college-bound youth in foster care or adopted after their 16th birthday. It administers scholarships and grants for former youth in foster care to achieve a meaningful postsecondary education. They provide tuition grants, book money, living stipends, and emergency funding for unexpected expenses. They also provide academic coaches, personal mentors, care packages, and internship opportunities.
- [Federal Student Aid](#) provides free information on the website from the U.S. Department of Education on preparing for and funding education beyond high school.
- [Smart Student Guide to Financial Aid](#) is a website with comprehensive annotated collections of information about student financial aid, including a financial aid calculator for determining costs.

4.8 Renegotiating Adoption Assistance

Adoption assistance payments made on behalf of a child must not exceed the foster care payment they would have received at the time the initial adoption assistance agreement was signed ([22VAC40-201-161](#)).

Renegotiations are contingent on meeting eligibility criteria for increasing monthly maintenance and/or requesting funding for special services.

The adoptive parent may request to renegotiate monthly maintenance on the Adoption Assistance Agreement when:

- During the initial negotiation process, the adoptive parent accepted less than the maximum amount the child was entitled to receive.

Example:

Basic Maintenance \$700.00

Enhanced Maintenance \$2,016.00

The total amount available to the adoptive family at the time the Adoption Assistance Agreement was signed was \$2,716; however, the adoptive family believed \$2,000 would be sufficient to support the child. The adoptive family can submit an [Addendum Request to the Assistance Agreement](#), receiving up to an additional \$716.00 in maintenance payments.

- The child had a hereditary tendency, congenital problem, or birth injury when the original adoption Assistance Agreement was signed; however, there was no condition present to warrant a monthly payment. As a result, the child was approved for a zero dollar agreement. The child now has a condition that is now in-line with the special need identified on the original Adoption Assistance Agreement, and the parents are requesting adoption assistance.
- The adoptive parents are requesting funding for a service that is not covered by any other resource.

4.8.1 Submitting a Request for Change

The adoptive parents must submit an [Addendum Request to the Assistance Agreement](#) to the LDSS with which they established the agreement. Both parents sign the request when the agreement was with two parents, including adoptive parents who are separated or divorced. One parent signs the request when the agreement was with one parent or when a signed court order documents the sole legal responsibility of one parent for the child.

As of July 1, 2015, all applications for adoption assistance and addendum requests are being facilitated by an Assistance Negotiator, with the following exceptions:

- *Adoption assistance agreements executed before October 2013 are not referred to an Assistance Negotiator, when the terms and conditions do not have end dates. The LDSS may utilize their existing internal process to extend the agreement past 18 years old or continue special services payments according to the terms of the agreement.*
- *Changing a provider or the rate for services on an existing agreement does not require the agreement to be renegotiated. The LDSS may make this administrative change by completing an addendum and placing a memo in the case record explaining the change. For rate changes that exceed 30%, a referral and renegotiation is required.*

4.8.2 Timeframe for Acting on Request

Within 14 calendar days after receiving the request for an addendum, the LDSS must:

- Review the request to determine whether it is complete with all required documentation and signatures.
- Notify the parents in writing, using the [Family Services Notice of Action and Right to Appeal](#), that the request was received and its status:
 - **The request is complete.** The notification must include the date the request was received. It must state that the LDSS and parents have 60 calendar days to assess, negotiate, and execute an addendum.
 - **Additional information is needed.** The notification must state the specific information necessary to complete the request. It should request the parents submit the information by email, phone, or in person within 30 calendar days from the notice date.

If the parents do not provide the information within 30 days, the LDSS must deny the request. The LDSS must inform the parents in writing the reasons for denying the request and that they may submit a new [Addendum Request to the Assistance Agreement](#).

- **Request is denied.** The notification must clearly state the reasons for the denial, provide information on the adoptive parents' right to appeal within 30 calendar days of receiving the notice of denial, and provide information on the fair hearing process. No further action is required by the LDSS on the request.

4.8.3 Assessing Overall Request for Addendum

The LDSS and adoptive parents should discuss the information provided in the Addendum Request to the Assistance Agreement. The purpose of this conversation is to fully understand the parents' reasons for requesting adoption assistance at this time. The conversation should include, but is not limited to:

- The changes in the child's special needs or the family circumstances of the parents, including:
 - The reasons the adoptive parents are concerned at this time.
- The impetus, duration, severity, and impact of the child's special needs and behaviors. The specific services, resources, and supports the parents have used, or attempted to use, in their family and community to address the changes.

- The services, resources, and supports the parents are requesting to help meet the child's special needs. The LDSS should summarize the concerns, needs, interests, and reasons of the parents to ensure accurate understanding. The LDSS must have completed the Post Adoption Decision Tree with the adoptive parent to ensure this is the most appropriate course of action.

4.8.4 Assessing Relevant Components of Adoption Assistance

The Assistance Negotiator must assess and negotiate relevant components of adoption assistance with the LDSS and adoptive parents to determine agreed upon terms for the Addendum. There is no need to assess components that are not impacted by the request, when the current terms will continue as delineated in the existing adoption assistance agreement.

The LDSS should use the application to assist in the assessment of the financial circumstances of the family and consider this information when negotiating changes to the agreement. This application does not determine the child's eligibility for adoption assistance and will not be used as the sole factor in assessing the family circumstances. The assistance negotiator, LDSS, and the parents should use the same assessment and negotiation process that is used for initial agreements to guide the addendum process, including:

- Negotiating adoption assistance.
- Assessing:
 - Family circumstance.
 - Basic maintenance needs of the child.
 - Additional supervision and support needs of child.
 - Services to meet the child's special needs.
- Other resources

When the adoptive parents request:

- A reassessment for additional supervision and support is provided by the adoptive parents, the LDSS must determine:
 - If the adoptive parent is already receiving the maximum amount, they can receive it based on the amount of the VEMAT and the amount that was originally negotiated when the initial agreement was signed.
 - If there are indications that the child's requirements for additional supervision and support may have changed based on the frequency,

duration, and intensity of the child's behavioral, emotional, and physical/personal care characteristics.

Such change in behavior must be documented, and a request is made using the [Addendum Request to the Assistance Agreement](#).

- To add a new diagnosis or special need factor that was present at the time of the adoption but was not diagnosed, the adoptive parents must submit documentation and relevant reports from qualified professionals as required for documenting the special need or condition/disability after the final order of adoption, when no more than one year has elapsed from the date of diagnosis.
- To document the child has a special medical need that existed at the time the initial adoption assistance agreement was executed prior to the final order of adoption, then the adoptive parents must submit documentation by qualified professionals of the child's current special medical need and its existence at the time the initial agreement was executed (whether or not treatment was being received).

4.8.5 Executing the Addendum

The LDSS must prepare an Addendum to the Virginia Adoption Assistance Agreement on behalf of the child. When the local board, or its designee, approves the Addendum, the parents and the local Board, or designee, must sign and date it. The local board does not have authority to deny an addendum for an eligible child. When both parents signed the request for an addendum and agreed to the terms in the Addendum, then both parents must sign and date the Addendum. Payments and services must not be effective until all parties have signed and dated the Addendum. Changes in payment rates, such as an increase or decrease in enhanced maintenance rate, must not be implemented until the first day of the month following all signatures. The Addendum must state the effective date of the changes. This date must not be earlier than the date when all parties signed the Addendum. The Addendum is executed on behalf of the child on the effective date stated in the Addendum. However, for special services payments, the effective date is the date on which all parties sign the Addendum.

The LDSS must give the adoptive parents a copy of the Addendum. The LDSS must place the original Addendum and all supporting documents in the child's adoption assistance case record.

4.9 Making Changes to the Adoption Assistance Agreement

There are certain circumstances that may occur and call for an amended adoption assistance agreement to be developed. Depending on the change requested, if the original adoption assistance agreement had two adoptive parent signatures, the request

will require both parents' signatures. Likewise, if the original adoption assistance agreement had one adoptive parent's signature, the request will only require one adoptive parent's signature.

4.9.1 Address Changes

Address changes are required to be submitted, in writing to the LDSS. The address change must be submitted as far in advance as possible so that adoption assistance payments and notices can be directed to the correct address and if the family is moving out of their current state of residence, Medicaid can be established in the new state.

The written address change must include the following information:

- Adoptive parent(s) names
- Telephone number
- Adoptive parent(s) email address
- Child's name
- Child's date of birth
- Complete old address
- Complete new address
- Effective date address change
- Adoptive Parent(s) Signature – both parents' signatures required

The LDSS must update the adoption case in the child welfare information system to reflect the information. If the adoptive parent is also a licensed foster parent or respite provider, the LDSS should also contact the appropriate licensing specialist to inform them of the information.

4.9.2 Single Adoptive Parent Marries

When a single parent who adopts subsequently marries and their new spouse adopts the child, an Amended Adoption Assistance Agreement can be developed adding the new spouse to the agreement. The adoptive parent must submit the following:

- A Request for an Addendum to the Agreement
- A copy of the adoption decree for the spouse and child.

The LDSS must develop an Addendum to the Adoption Assistance Agreement adding both parent's names signed by the local board or its designee. The agreement is effective the day it is signed.

Any changes to this agreement, once both parents sign, require the signatures of both parents.

4.9.3 Adoptive Parents Divorce

When adoptive parents enter into a legal separation or divorce situation, it often becomes necessary to take one of the parents off the Adoption Assistance Agreement. The LDSS should encourage the parents to address the agreement directly with their attorneys so that the court can perhaps order one parent to receive the adoption assistance. LDSS does not have the authority to remove one parent from the agreement without a written notarized request signed by both adoptive parents or by a court order.

When adoptive parents divorce and one adoptive parent is granted physical custody or it is ordered by the divorce decree to receive the adoption assistance, a new agreement must be developed.

The adoptive parent must submit the following:

- A Request for an Addendum to the Agreement
- A copy of the court order identifying the adoptive parent as the custodial parent.

The LDSS must develop an Addendum to the Adoption Assistance Agreement that includes only the custodial parent's name signed by the local board or its designee and the parent. The agreement is effective the day it is signed.

4.10 Adoption Dissolution

Adoption dissolution occurs after the adoption is finalized and the legal family relationship and responsibilities of the adoptive parents no longer exist. Adoption dissolution is different from adoption disruption in that adoption disruption ends the adoption process prior to the finalization of the adoption. Adoption disruption may result in the child changing placements from the prospective adoptive parents' home to another placement while in foster care. For more information about adoption disruptions see Chapter E. Foster Care Manual, [Section 9.12](#).

When dissolution cannot be prevented or an alternative found, it should be approached with the child's best interests at the forefront. Sensitivity to the feelings of the child who leaves the family and the children who stay in the family must be the first priority.

4.10.1 Role of LDSS Prior to Adoption Dissolution

Knowing that adoption dissolution can be devastating for both the adopted child or youth and the adoptive family as a whole; an agency should work diligently to prevent a dissolution by providing support and post adoption services specific to the needs of the adoptive child or youth and family.

Problems in the adoptive home should be evaluated in light of the family's issues as well as the needs and behaviors of the child. The adoptive family should be encouraged, supported, and assessed in getting services in place that will enable the parents to continue to parent their child. The LDSS should view the family as the best resource for this child unless a safety risk has been identified from a child protective services (CPS) assessment or investigation. In the event of a CPS allegation, the LDSS should collaborate with the CPS worker to work with the family.

Prevention services should be provided to the family prior to adoption dissolution. If the family resides in a different locality than the locality that assisted the family with placement and finalizing the adoption, the LDSS that is responsible for coordinating post-adoption services is the LDSS that assisted with finalizing the adoption. When requested, the LDSS where the family resides should assist the other LDSS in providing information on appropriate services and support within the community to preserve the family. If Family Assessment and Planning Team (FAPT) involvement is necessary, the locality where the family resides will be responsible for conducting the FAPT meeting and the LDSS that was responsible for finalizing the adoption and providing services should attend the meeting (See [Section 2.17.3](#) for more information about LDSS responsibilities).

To prevent the child from entering foster care, foster care prevention services should be provided when the adoption is at risk of dissolution and a Family Partnership Meeting (FPM) should occur when the potential disruption is recognized. The LDSS where the family resides is responsible for opening a prevention case, if necessary. For more information about providing prevention services and opening a prevention case, (See Chapter B., Prevention Services, [Section 2](#)). If the placing agency is from another state and the child resides in a Virginia locality, the LDSS where the family resides should work in collaboration with the out of state locality to prevent adoption dissolution. If the adoption dissolves, the LDSS where the adoptive parents reside may receive custody of the child.

To prevent dissolution the team should consider what services might salvage the adoption, what support services the adoptive family may need, and if relinquishment of the child directly to the LDSS would be most appropriate.

4.10.2 Role of LDSS During Adoption Dissolution

A dissolution decision should be made with the focus on the best interest of the child. The LDSS should continue engaging the family if the child enters foster care, unless TPR occurs.

A temporary entrustment agreement should only be considered when it is in the child's best interest. At no time should a temporary entrustment agreement be accepted from adoptive parents as their plan to eliminate their legal responsibilities or to obtain treatment for the child. A temporary entrustment agreement does not terminate the adoptive parents' rights or their duty to support their child. It does, however, place the child back in foster care and communicates a message of failure and instability to the child.

In the event of adoption dissolution, the LDSS may need to pursue TPR. If an adoptive child comes back into foster care and the parents' rights are terminated either voluntarily or involuntarily, the procedure to terminate the adoptive parental rights is the same as for any parent (see Chapter E., Foster Care Manual, [Section 9.6](#) for information on TPR).

TPR severs the relationship of parent and child between the individual adopted and the adoptive parents. The former parents are relieved of all legal duties and obligations due from them to the adoptee and the former parents are divested of all rights with respect to the adoptee.

4.10.2.1 Opening a foster care case

If there is adoption dissolution and the child is removed from the home, the child enters foster care in the locality where the family resides. A new foster care case is opened in the child welfare information system (See Chapter E., Foster Care Manual, [Section 2](#) and [Section 3](#) for more information about opening a foster care case).

4.10.2.2 Closing the adoption case

When the parental rights of the adoptive parents are terminated, the adoption case is closed in the child welfare information system. The information in the child welfare automated system remains restricted and the paper adoption file is sealed (See [Section 4.9.4](#) on how to obtain adoption information to provide services to the child).

4.10.3 Adoption Assistance and Adoption Dissolution

If the child is no longer in the adoptive parents' home or was placed in foster care and TPR has not occurred, the LDSS that entered into the adoption assistance agreement with the adoptive family should assess the agreement with the adoptive family. The

LDSS should make a referral to the Assistance Negotiator to negotiate the adoption assistance payment, if necessary. No changes to the adoption assistance payment must be made without being negotiated ([§ 63.2-1302 C](#)).

The adoption assistance payment cannot be terminated or reduced without the adoptive parents' consent unless the LDSS determines that there is a circumstance that meets the termination criteria of the adoption assistance agreement (See [Section 2.16](#) for more information for terminating an adoption assistance payment).

If the family was receiving adoption assistance and TPR occurs, the family is no longer legally or financially responsible for the child and adoption assistance must be terminated ([22VAC40-201-161 N](#)).

4.10.4 Obtaining Information After Adoption Dissolution

Once an adoption is finalized in Virginia, the adoption record is sealed and information can only be disclosed under the circumstances designated in the Code of Virginia [§§ 63.2-1246](#) and [63.2-1247](#). See [Section 5.4](#) and [5.5](#) for additional information on when adoption information can be disclosed to the adoptee, birth family, and adoptive parents.

The Commissioner must release non-identifying information from the adoption record when the LDSS requesting the information is providing services to the child or adoptive parents ([§ 63.2-1246](#)). When a child returns to foster care after adoption dissolution, the original LDSS or LCPA may release non-identifying information in the child's adoption records to the LDSS that has custody of the child. Non-identifying information is information that does not identify the birth family or any trace information that could lead to the identification of the birth family (See [Section 5.4](#) for more information about non-identifying information). When the adopted child enters foster care and the adoption was finalized in Virginia, the LDSS seeking information from the adoption record should contact the Adoption Unit to determine if the information may be released.

Date - July 1, 2022

Manual - Child and Family Services Manual, Chapter F, Adoption

Transmittal - # 301

The purpose of this transmittal is to provide new, revised, and clarified guidance for *Chapter F: Adoption* of the Child and Family Services Manual. Unless otherwise stated, the provisions included in this transmittal are effective in July 2022.

Changes to the manual incorporate new state laws as well as state regulations, clarify existing guidance; and enhance guidance. Changes were also made throughout the manual to address grammatical issues or minor clarifications that are not included in the chart below.

The draft transmittal and manual are available internally on FUSION or to the public on the Virginia Regulatory Town Hall site:

FUSION at: <https://fusion.dss.virginia.gov/dfs/DFS-Home/Adoption/Adoption-Guidance>.

Virginia Regulatory Town Hall at: <https://townhall.virginia.gov/index.cfm>

The current version of this chapter of guidance is available to the public at:

<https://www.dss.virginia.gov/family/ap/index.cgi>

Significant changes to the manual are as follows:

Section(s) Changed	Significant Changes	Reason for Change
Section 4.8.1 Submitting a request for change	This subsection was revised to add two exceptions for negotiating Adoption Assistance Agreements (AAA): those executed prior to October 2013, when the terms and conditions do not have end dates, and for provider or provider rate changes that do not exceed thirty percent.	This revision was requested by the Assistance Negotiators. It was previously included in a prior release of the guidance.
Section 5.8 Report of inquiries	This subsection was revised to add an additional disposition for the Report of Inquiries for use when the Commissioner's Review is required.	This addition was made to provide direction to child placing agencies (CPA's) on how to proceed when a birth parent is mentally incapacitated or deceased.
Section 6 Non-agency placement adoptions	This section was revised throughout to add the word "must" with respect to requirements that are mandatory and to change the term "Report of Home Study" to "Home Study."	This revision is necessary to align this chapter with all other chapters of the Child and Family Services manual.

Section 6.2 Reports required by the court	This subsection was added to outline the two types of reports required by the court (the Report of Investigation and the Report of Visitation).	This change was prompted by House Bill (HB) 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1 Report of Investigation	This subsection was added to remove the courts' discretion to enter the Order of Reference before entering the Order of Publication. The court must now enter them both concurrently when an order of publication is required.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1.1 Requirements for a Report of Investigation	This subsection was added to outline the requirements necessary for completing a Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.1.2 Submitting the Report of Investigation	This subsection was added to provide directions for submitting the Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.2.2 Report of Visitation	This subsection was added to provide additional requirements needed for the Report of Visitation. It also revises the timeline for submitting the final report and increases the period for sending the Report of Visitation to the court from 15 days to 30 days after the last visit. The subsequent subsections were renumbered due to the addition of the new subsection.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.1 Timeline for parental placement adoption	This subsection was revised to include the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.3 Duties of the attorney in parental placement adoption in juvenile court	This subsection was revised to add information regarding requirements for notifying fathers of adoption plans and about the availability of registration in the Virginia Birth Father Registry.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.4 Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court	This subsection was revised to add the provision granting the Commissioner authority to remove a child from the home if the child is subjected to unwholesomeness influences, neglect, or mistreatment.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.6 Duties of the circuit court in a parental placement	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of

adoption after the adoption petition is filed in circuit court		the Virginia General Assembly.
Section 6.4.9.2 Acknowledge the Interlocutory Order or Order of Reference	This subsection was revised to add the Order of Reference and Report of Investigation as options for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.9.3 Supervision of the placement	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.4.9.4 Make supervisory visits	This subsection was revised to add that the circuit court may, with good cause shown, omit the requirement that three visits be made within a six-month period.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.5.3 Review the Interlocutory Order or Order of Reference	This subsection was revised to add the Order of Reference as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.5.6 Complete the required report	This subsection was revised to change the title of the subsection and add timeframes regarding submission of the Report of Investigation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.6 Duties of the attorney	This subsection was revised to add information regarding requirements for notifying fathers of adoption plans and about the availability of registration in the Virginia Birth Father Registry.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.5.7 Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years	This subsection was revised to update the timeline for notifying fathers of pending adoption plans.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.2 Review the petition and the Order	This subsection was revised to include the Interlocutory Order as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.3 Make inquiries during the investigation	This subsection was revised to add the Report of Visitation provisions to the subsection.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.7.2.5 Prepare the required report	This subsection was revised to change the title of the subsection so that it	This change was prompted by HB 869

	applies to both the Report of Investigation and Report of Visitation.	from the 2022 Session of the Virginia General Assembly.
Section 6.7.3 Report of Visitation	This subsection was revised to increase the period for sending the Report of Visitation to the court from 15 days to 30 days after the last visit.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.8.3.2 Review the petition and Order	This subsection was revised to add the Interlocutory Order as an option for the circuit court.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 6.8.3.4 Prepare the required report	This subsection was revised to change the title of the subsection so that it applies to both the Report of Investigation and Report of Visitation.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 8.5.1 Timely registration	This subsection was revised to add that registration with the Virginia Birth Father Registry is untimely if 180 days have passed from the date the circuit court entered the final Order of Adoption.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.
Section 8.8 Compliance with notice provisions	This subsection was revised to add that written notice must be provided by personal service, certified mail with proof of service, or express mailing with proof of delivery to the fathers' last known address.	This change was prompted by HB 869 from the 2022 Session of the Virginia General Assembly.

Questions related to adoption assistance should be directed to the Regional Assistance Negotiators:

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6

NON-AGENCY PLACEMENT ADOPTIONS

TABLE OF CONTENTS

6.1	Introduction	4
6.2	<i>Reports Required by the Court</i>.....	4
6.2.1	<i>Report of Investigation.....</i>	5
6.2.2	<i>Report of Visitation</i>	10
6.2.3	<i>Supplemental Reports</i>	14
6.3	<i>Agency actions after final disposition</i>	14
6.3.1	<i>Acknowledgment and disposition of case materials</i>	14
6.3.2	<i>Close the case.....</i>	14
6.4	Parental placement adoptions	14
6.4.1	Timeline for parental placement adoption	15
6.4.2	Responsibilities of the agency in a parental placement adoption before the adoption petition is filed in circuit court	15
6.4.3	Duties of the attorney in parental placement adoption in juvenile court	23
6.4.4	Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court.....	26
6.4.5	Duties of the Commissioner in a parental placement adoption when reports of suspected violations of law in the placement and adoption	31
6.4.6	Duties of the circuit court in a parental placement adoption after the adoption petition is filed in circuit court	31
6.4.7	Duties of the attorney in a parental placement adoption after the adoption petition is filed in circuit court.....	33

Child and Family Services Manual

F. Adoption

6.4.8	Duties of the Commissioner in a parental placement adoption after the adoption petition is filed in circuit court	33
6.4.9	Responsibilities of the agency in a parental placement after the adoption petition is filed in circuit court.....	34
6.4.10	Adoption recommended by birth parents, physicians, Virginia licensed attorneys, and clergymen	36
6.5	Close relative adoptions.....	37
6.5.1	Close relative placement for a child who has been in the home less than two years 38	
6.5.2	What is needed to file in circuit court.....	38
6.5.3	Close relative placement for a child who has been in the home two or more years 39	
6.5.4	Finalizing the adoption.....	39
6.5.5	Responsibilities of the agency	39
6.5.6	Duties of the attorney	44
6.5.7	Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years.....	47
6.5.8	Duties of the Commissioner	48
6.6	Stepparent adoptions	49
6.6.1	Case opening	49
6.6.2	Review the petition and Order of Reference	50
6.6.3	Duties of the attorney	54
6.6.4	Duties of the Commissioner	55
6.6.5	Duties of the circuit court.....	55
6.7	Adult adoptions	59
6.7.1	Specifics for Adult Adoption.....	59
6.7.2	Responsibilities of the agency in adult adoption.....	59
6.7.3	Report of Visitation	64
6.7.4	Distribute copies of the report.....	64
6.7.5	Duties of the attorney in an adult adoption	64
6.7.6	Duties of the court	65
6.7.7	Duties of the Commissioner	66
6.8	Intercountry adoptions	66
6.8.1	Pre-adoptive requirements	67

6.8.2 Adoptive home study 67

6.8.3 Responsibilities of the LDSS in inter-country adoptions 67

6.8.4 Duties of the attorney 70

6.8.5 Duties of the Commissioner 71

6.8.6 Duties of the circuit court 71

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6

NON-AGENCY PLACEMENT ADOPTIONS

6.1 Introduction

A non-agency placement adoption occurs when the child is not in the custody of a local department of social services (LDSS) or licensed child-placing agency (LCPA). In a non-agency placement, the birth parents or legal guardians consent to the adoption, and parental rights are terminated by entry of the Final Order of Adoption. Depending on the type of non-agency placement, the local agency may have identified responsibilities to assist in the completion of the adoption.

In all cases, regardless of the court it may proceed in, all legal custodians and anyone named as a party to a custody or visitation petition for the child, must be given proper notification of any adoption proceeding and be given an opportunity to be heard.

Fees may be charged for non-agency adoptions and are determined based on income, family size, and indirect costs to the agency. The fee schedule is established by the State Board of Social Services. See [Section 5.10.1](#) for additional information on charging a fee.

6.2 Reports Required by the Court

The court may require a child-placing agency (CPA) to complete a Report of Investigation or a Report of Visitation when hearing adoption petitions. The CPA will receive an order from the court indicating which report must be completed. If the CPA receives an Order

of Reference, a Report of Investigation is required. If the CPA receives an Interlocutory Order, a Report of Visitation is required.

6.2.1 Report of Investigation

When considering a petition for adoption, the circuit court may enter an order referring the case to a CPA to conduct an investigation and prepare a report. When necessary, the court must enter the Order of Reference concurrently with entering an Order of Publication.

The Order of Reference is the document that orders the CPA to investigate the petitioners' home and submit the Report of Investigation. Upon entry of the Order of Reference, the court forwards a copy of the petition, the Order of Reference, and all exhibits to the Commissioner and to the CPA ([§ 63.2-1208](#)). Exhibits are any documents filed with the petition, such as the consent and a statement that the birth parents received counseling.

6.2.1.1 Requirements for a Report of Investigation

The CPA must prepare and submit a Report of Investigation to the court as directed by the court order. The Report of Investigation must include all relevant information necessary to provide an orderly and complete account of the facts leading up to and supporting the child's adoption. The Report of Investigation should not reflect the attitudes of the worker or agency and should be simple, direct, and use clear, brief sentences to provide the information.

The Report of Investigation must include a statement by the CPA or local director that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the subject of an investigation as the perpetrator of sexual abuse, have been provided to the prospective adoptive parents. The report must include a list of all records provided to the adoptive parents ([§ 63.2-1208 F](#)). The LDSS must ensure all criminal background checks and Central Registry records checks have been completed and are current within 18 months of filing the final Report of Investigation to the circuit court.

The following checklist provides a framework for the information included in the Report of Investigation:

- *Verification of child's name and the date and place of birth with birth registration number*
- *Information about the petitioners, to include the following:*

Child and Family Services Manual

F. Adoption

- *Full name, maiden name, and aliases*
- *Place and date of birth*
- *Verification of marriage*
- *Verification of termination of marriages*
- *Physical description/personalities*
- *Employment history*
- *Medical and mental health history of the adoptive family*
- *The religion of the adoptive family*
- *Children*
- *Education*
- *Details of the adoptive family's financial situation, including income and debts/financial stability of family and ability to manage finances*
- *Family's capability to meet monthly expenses*
- *Information about the home, to include the following:*
 - *Size of the home*
 - *Location of the home*
 - *Housekeeping standards*
 - *Occupants/other children and adults living in the home*
 - *Extended family members*
 - *Adoptive parent's children not living in the home*
 - *Persons not residing in the adoptive home who may have frequent and meaningful contact with the adoptive household*
 - *Adoptive parents' relationship with the adoptive child*
 - *Relationship between adoptive parents and birth parents*
- *Information about the child, to include the following:*

Child and Family Services Manual**F. Adoption**

- *Proposed new full name (if applicable)*
- *Physical description/description of personality*
- *Likes/dislikes/sensitivities/allergies*
- *Hobbies/talents*
- *Any aspirations for the future (depending on age)*
- *Place of birth, hospital, city, and state*
- *Child's heritage/citizenship*
- *Race/ethnic background*
- *The reason the child became free for adoption*
- *Court order/entrustment agreement (date signed and entered)*
- *Dates of the death of the birth parent/custodian/legal guardian (if applicable)*
- *Juvenile delinquency history of the child (if applicable)*
- *Relationship with birth family*
- *Siblings and location*
- *Frequency, location, and nature of visitation*
- *Potential for visitation after finalization*
- *Contact with birth parents after finalization*
- *Child's adjustment to the current placement*
- *Child's position regarding adoption by the adoptive parents*
- *Child's understanding of the legal consequences of adoption*
- *Child's position regarding the relationship with birth family, if contact is continued*
- *Child's relationship with other children in the household*
- *Education history*

Child and Family Services Manual**F. Adoption**

- *Current school and address*
- *Grade/summary of academic record*
- *Special education needs*
- *Description of conduct in school*
- *Services provided to the child by the school*
- *Relationship with teachers and peers*
- *Adoptive parent's involvement with child's education and commitment to encouraging child's education*
- *Medical history/diagnosis, prognosis*
- *Physical disabilities and supportive services to meet needs*
- *Attach pertinent medical records and reports*
- *Mental health history*
- *History of mental illness and treatment/supportive services to meet mental health needs.*
- *Attach relevant psychological and physical health records.*
- *Information about the birth parents, to include the following:*
 - *Names*
 - *Date of birth/age*
 - *Age at time of child's birth*
 - *Marital status at the time of child's conception and birth*
 - *Verification of a parent's death*
 - *Nationality/ethnic origin/race*
 - *Physical description*
 - *Education*
 - *Occupation*

- *Religion*
- *Talents/hobbies/special interests*
- *Drugs taken during pregnancy*
- *Hereditary disease/physical health, including current overall physical health*
- *Mental health history*
- *Relationship with parents/family relationships/siblings/extended family*
- *Separation from and planning for a child, opportunity for counseling*
- *Consent*
 - *Proper identification of child and petitioner*
 - *Date of consent*
 - *Date, place, and method of custody received*
- *Information about the placement, to include the following:*
 - *Date of placement*
 - *Circumstances surrounding the child's placement*
 - *Fees paid by the petitioner to persons or agencies that have assisted them in obtaining the child*
 - *Assessment of the adoptive family*
 - *Strengths*
 - *Potential issues/plan to resolve issues*
 - *Post-adoption services needs*
 - *Agency's recommendation*

6.2.1.2 Submitting the Report of Investigation

The CPA must complete and submit the Report of Investigation within 60 days of receiving the petition and Order of Reference ([§ 63.2-1208](#)).

The agency must prepare, maintain, and forward the original and copies of the Report of Investigation to the following:

- Original to the court with a [Certificate of Service](#).
- One copy is sent to the attorney.
- One copy is sent to the Commissioner via the Virginia Department of Social Services (VDSS) Adoption Unit, along with:
 - A completed [Commissioner's Confidential Report](#);
 - Copies of the Entrustment Agreement for Permanent Surrender of a Child, if applicable, and commitment orders; and
 - A copy of the [Certificate of Service](#).

If the adoptive parents do not have an attorney, the CPA should advise the adoptive parents that the Report of Investigation has been submitted to the court, and they should contact the clerk of court to have their case placed on the docket for disposition.

6.2.2 Report of Visitation

The purpose of the visits are to determine for the court whether the best interest of the child will be met by finalizing the adoption. At a minimum, the Report of Visitation must include a mutual assessment of the placement, the agency contacts, the adjustment of the child and family with the placement, and services the supervising child placement agency has provided or needs to be provided.

The following questions, specified in [§ 63.2-1208](#), must be answered:

- Are the petitioners financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child?
- *What is the physical and mental condition of the child?*
- Why do the parents, if living, desire to be relieved of the responsibility for the custody, care, and maintenance of the child, and what is their attitude towards the proposed adoption?

Child and Family Services Manual

F. Adoption

- Did the parents abandon the child or are they morally unfit to have custody over *the child?*
- What are the circumstances under which the child came to live, or will be living, in the petitioners' home?
- Is the child is a suitable child for adoption by the petitioner?
- What fees have been paid by the petitioners or *on* their behalf to assist them in obtaining the child?
- What is the relevant physical and mental history of the birth parents, if known?

The report should include:

- Interviews with:
 - Adoptive parents;
 - Child, if of the age to participate; and
 - All biological parents/legal guardians 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 parents of a child born out-of-wedlock, it must be sent by or certified mail.
- The letter must be delivered to the addressee only and a return receipt requested.
- Contact with professional persons concerned with the case.
- Home visits
- Medical statements on the child and adoptive parents in non-relative cases.
- Information on the adoptive parents' income in order to determine the fee assessed.
- *A statement by the CPA that all reasonably ascertainable background, medical, and psychological records of the child, including whether the child has been the*

subject of an investigation as the perpetrator of sexual abuse, have been provided to the prospective adoptive parents.

If unable to complete the investigation:

- The court and the VDSS Adoption Unit must be notified if the investigation and report are delayed and cannot be completed within *30 days of the completion of all required placement visits* at adoptionrecords@dss.virginia.gov.
- A report *must* be sent to the court *requesting* additional time to complete the report. The request should include the reason for the delay or inability to complete the investigation *and indicate how much additional* time is needed to complete the investigation.
- If the petitioners cannot be contacted or located, the agency *must* submit a report to the court and recommend the petition be dismissed.
- If the petitioners move from Virginia before *the* completion of the investigation, the agency *must* request assistance from the new state of residence through ICPC.
- An Interstate Compact Form (100A) *must be* completed and forwarded to the ICPC *office* with a cover letter stating the needed services and any collateral materials the out-of-state agency may need to complete their services.
- Collateral materials would include social and medical information on the child and birth parents and the home study on the adoptive family.

6.2.2.1 Prepare the Report of Visitation

Use the format for the home study required by § [63.2-1208](#) shown in the Forms section with the following changes:

- Title the report "Report of Visitation."
- Direct the report to the appropriate circuit court and the appropriate circuit court judge.
- Put the court chancery number and the Virginia adoption case number on the report if available.
- Cite the appropriate code section under which the agency was directed to do the report (§§ [63.2-1208 B](#) and [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.
- 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.

6.2.2.2 *Distribute copies of the report*

Send copies to:

- Original to the court with the [Certificate of Service](#).
- VDSS Adoption Unit.
- 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.
- A copy may be sent to the adoptive parents.

If a letter of opposition to the adoption is received from the biological parents, the letter must be sent to the court with the report. A copy is sent to the attorney and to the VDSS Adoption Unit with the copy of the report. A copy is kept in the agency's file.

- Keep one copy in agency's file until final action by the court.
- The agency should submit any additional information requested by the VDSS Adoption Unit.
- In those instances where an LDSS has provided services, and the court may enter a final order, the agency must include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee must be provided by the LDSS to the court prior to the entry of the final order (§ [63.2-1248](#)).

6.2.3 Supplemental Reports

If the agency receives factual information on a case that would influence the action taken by the court, the agency must submit a Supplementary Report. A Supplementary Report can be *submitted* when no court action has been taken, or the case is pending due to a request for additional time to complete the investigation.

- The agency must send the original to the court, a copy to the VDSS Adoption Unit, and a copy to the attorney. A copy must be retained in the agency's file.

6.3 Agency actions after final disposition

A final disposition is the final action taken by the court in an adoption proceeding; it means the case is closed. A final order granting an adoption means the child acquires parents other than his natural parents, and a person acquires a child other than by birth. A final order is not subject to attack after six months from its entered date and is final for all purposes ([§ 63.2-1213](#)).

6.3.1 Acknowledgment and disposition of case materials

The agency must review and acknowledge receipt of the Final Order of Adoption or any other order of final disposition. A copy of the [Certificate of Acknowledgment](#) must be sent to the court, and a copy must be sent to the VDSS Adoption Unit. The agency should purge the record of duplicative material and send to the VDSS Adoption Unit for preservation original copies of all pertinent material that has not been sent (See [Section 3.9.2](#) for more information about sending the adoption file for preservation).

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.

6.3.2 Close the case

The case must be closed when the Final Order of Adoption is received.

6.4 Parental placement adoptions

Parental placements for adoption are governed by the provisions in Chapter 12 of the Code of Virginia, [§ 63.2-1230](#) through [63.2-1240](#).

When an LCPA or LDSS is requested to and accepts custody of a child *to place* the child with adoptive parents recommended by the birth parents or a person other than an LDSS or LCPA, the birth parents select either the parental placement adoption provisions or the agency adoption provisions ([Section 3.5](#)) for the adoption of their child.

An agency or local board *must* provide information to the birth parents regarding the parental placement adoption and agency adoption provisions, and *must* provide the birth parent the opportunity to be represented by independent legal counsel as well as counseling. No person *must* charge, pay, give, or agree to give or accept any money, property, services, or other thing of value in connection with such adoption except as provided in [§ 63.2-1218](#).

In a parental placement, the agency completes a home study and a petition is filed in the juvenile and domestic relations court for execution of consent and awarding custody to the prospective adoptive parents. The juvenile and domestic relations court reviews the home study and collateral material to determine whether the requirements of law are met, accepts parental consent, and transfers custody to the adoptive parents. An adoption petition may then be filed in circuit court.

6.4.1 Timeline for parental placement adoption

The overall steps in a parental placement adoption are as follows:

- The agency must receive a request for a home study from the court.
- A home study is completed by the agency and submitted to the court.
- A petition is filed for execution of consents in juvenile and domestic relations district court.
- The court accepts consent and awards custody to the prospective adoptive parents.
- A petition for adoption is filed in the circuit court.
- The circuit court enters an Interlocutory Order *or an Order of Reference* if everything is in compliance with the law.
- The agency conducts supervision of the placement and submits a Report of Visitation *or a Report of Investigation* to the circuit court.
- After a six-month supervisory period, the circuit court enters a Final Order of Adoption.

6.4.2 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 *must* perform the tasks in the following sections.

6.4.2.1 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.

6.4.2.2 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.
- Report of Visitation.
- All correspondence.
- Documentation, including background forms and information on the birth family.
- Documentation of the simultaneous meeting between adoptive and birth parents if held. If the simultaneous meeting is not held, all contacts and meetings with the birth and adoptive family *must* be noted.
- Documentation of the counseling provided to the birth family.
- Case narratives.

6.4.2.3 Conduct a home study of the prospective adoptive home

The manner in which a family receives a child for adoption *must* have no bearing on how the family is assessed for the purposes of an adoptive placement. The criteria of capacity for parenthood are the same whether the child was placed by an agency, the birth parents, or a legal guardian.

The difference between completing a home study for a child placed by an agency and for a child placed by the 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 home approval standards issued by Virginia Department of Social Services (VDSS). 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 based on information gathered during the home study process.

The adoptive home study process involves a shared determination by the adoptive applicants and the agency as to whether they can meet the needs of an adopted child. It should be carried out so that it brings an increased understanding of the adoption process and begins to prepare the applicants for adoption. A thorough assessment of the adoptive family is critical in evaluating whether the placement is contrary to the best interest of the child.

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 must be completed and filed with the court prior to the consent hearing.

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 ([§ 63.2-1230](#)). 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.

6.4.2.4 Agency meetings with the birth parent and adoptive parent

In addition to the information gathered during the home study, the agency worker *must*:

- Meet at least once with the birth parents and the prospective adoptive parents. If the birth parents and prospective adoptive parents agree, the meeting may occur simultaneously ([§63.2-1231](#)).
 - The purpose of this simultaneous meeting is to facilitate the exchange between the birth parents and adoptive parents of identifying information, including 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 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 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 [§ 63.2-1231](#).
- Inform the birth parents of alternatives to adoption, adoption procedures, and opportunities for placement with other adoptive families. Anyone may provide the required information to the birth parents including doctors, attorneys, ministers, counselors, and service workers. However, it is the service worker's responsibility to determine whether this information has been provided, and if not, to provide it.
- When birth parents request 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 parents in obtaining this counseling. The agency may provide the counseling directly or refer the birth parents to another community agency.
 - Documentation that the birth parents were provided with this information and related counseling services is required and may serve as evidence for the court. The court is required to determine that the birth parents' consent is informed and uncoerced before proceeding with the adoption ([§ 63.2-1232](#)).
- 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; and the opportunities for adoption of other children.
 - Documentation that the adoptive parents were provided this information is required and may serve as evidence for the court. The court is required to determine that the adoptive parents' decision is informed and uncoerced and that they intend to file an adoption petition and proceed toward a Final Order of Adoption ([§ 63.2-1232](#)).

- The family can be informed of this information by the attorney or the agency. The agency should determine whether the family has received this information and, if not, provide it during the course of the home study. The home study should indicate that this information was provided to the adoptive parent.

6.4.2.5 No exchange of property, advertisement, or solicitation

The agency *must* determine that there has been no exchange of property, advertisement, or solicitation except that which is allowed in [§ 63.2-1218](#) and [§ 63.2-1232](#). Fees that are allowable include:

- Reasonable and customary services provided by a licensed or duly authorized child-placing agency (CPA) and fees based on prevailing community rates.
- 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 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.
- Payment or reimbursement for reasonable expenses incurred incidental to any required court appearance including transportation, food, and lodging.
- Usual and customary fees for legal services in adoption proceedings;
- Payment or reimbursement of reasonable expenses incurred for transportation in connection with any of the services specified in [§ 63.2-1218](#) or intercountry placements as defined in [§ 63.2-1104](#) and as necessary for compliance with state and federal law in such placements.

If the agency suspects that 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 *must* report the findings to the Commissioner for investigation. (If the agency has questions as to whether a violation of [§ 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.)

6.4.2.6 Binding contract

The agency *must* determine that all parties understand that no binding contract exists regarding placement or adoption of the child ([§ 63.2-1232](#)).

Birth parents may change their minds about adoption, even after executing consent. Consent does not terminate parental rights and may be revoked by the birth parents within **seven days** of execution, upon proof of fraud or duress or by mutual consent of the birth and adoptive parents 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.

In a parental placement adoption the birth and adoptive parents may decide to enter into a Post Adoption Contact and Communication Agreement (PACCA) per [§ 63.2-1220.2](#) (See [Section 3.5](#) for more information about PACCA). Failure to comply with a PACCA, does not impact the validity of the consent to the adoption, the voluntary relinquishment of parental rights, the voluntary, or involuntary termination of parental rights, or the finality of the adoption.

6.4.2.7 Provide the juvenile court with a Home Study

The juvenile court should be provided with a home study in order to determine suitability of placement and custody.

6.4.2.8 Home Study format

The format for Home Study should be used as recommended by the VDSS Adoption Unit. The report *must* include the following:

- 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.
- The physical, mental and developmental condition of the child.
- Information about both birth parents, including:
 - Names and addresses.

Child and Family Services Manual

F. Adoption

- 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.
- 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 ICPC have been met.
- 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 Home Study that is submitted to the juvenile court.
 - The agency is also responsible for reporting suspected violations to the Commissioner.
- 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 three days old before consent can be executed ([§ 63.2-1233](#)).
 - 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's recent birth, 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 Birth Father Registry *must* be provided to the court ([§ 63.2-1233.1b](#)).
 - 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 Home Study.

- 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 parents. A list of reports given to the prospective adoptive parents *must* also be submitted with the Report of Visitation.

The birth parents *must* be aware of their opportunity to be represented by legal counsel, and consent of the birth parents *must* be informed and uncoerced.

Additional information is reported on the [Certification form](#). The Certification form is signed by the agency worker and notarized certifying the following:

- That the birth parents 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, the prospective adoptive parents' decision appears to be informed and uncoerced, and the adoptive parents have stated 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 birth parents and adoptive parents simultaneously; or
 - The simultaneous meeting between the agency worker, the birth parents and adoptive parents did not occur because the child was being adopted by his/her grandparents, adult sibling, or adult uncle or aunt.
- Identifying information including full names, addresses, physical, mental, social and psychological information was exchanged between the birth parents and the adoptive parents.

The agency submits the Certification form to the court with the Home Study.

The original and two copies are provided to the court and the court, at its discretion, provides the birth and adoptive parents with copies of the home study.

6.4.2.9 False information

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 *must* report this to the Commissioner (§ [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.

6.4.3 Duties of the attorney in parental placement adoption in juvenile court

The duties of the parent's attorney in a parental placement adoption do not require any action by the CPA (CPA references LDSS or LCPA). However, the CPA should be knowledgeable of what actions the attorney is required to take in facilitating the adoption.

- File petition for consent hearing (§ [63.2-1237](#)).
- Obtain consent from (§ [63.2-1202](#)):
 - The mother.
 - 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 ten 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 Virginia Birth Father Registry.
 - 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 (§ [63.2-1202](#)).
 - If consent cannot be obtained from at least one parent, the court *must* deny the petition and determine custody of the child pursuant to § [63.2-1233](#) unless all parents are deceased (§ [63.2-1233.3](#)).

Consent is not required when:

- A birth father denies under oath and in writing the paternity of the child. A denial of paternity may be withdrawn no more than ten days after it is executed. Once a child is ten 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. ([§ 63.2-1202](#))
- The birth father is convicted of a rape, carnal knowledge of a child between 13 and 15, or adultery or fornication with a daughter, granddaughter, son, grandson, father, or mother and the child to be adopted was born of this action.
- 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 *must* the birth father be entitled to notice of any of the adoption proceedings ([§ 63.2-1233.6](#))
- A person's parental rights have been terminated by a court of competent (legally qualified) jurisdiction.
- If birth parents without cause, has neither visited nor contacted the child for a period of six months prior to the petition for adoption.
 - The adoptive parent needs to show evidence that the birth parents has not visited or contacted the child for a period of six months.
 - A birth parent is still required to receive notice and be heard on the allegation of abandonment.
 - Failure of the non-consenting parent to appear at any scheduled hearing constitutes a waiver of such objection.
- 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](#)). A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required ([§ 63.2-1203.3](#)).
- 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 ([§ 63.2-1202](#)).
- 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 ([§ 63.2-1202](#)):

- The putative father did not register with the Virginia Birth Father Registry his consent is not required (§ [63.2-1233.1b](#)). If the identity of the father is reasonably ascertainable, but the whereabouts of the father are not reasonably ascertainable, verification of compliance with the Virginia Birth Father Registry *must* be provided to the court (§ [63.2-1233.1b](#));
- 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 within **15 days** of the mailing of the notice (§ [63.2-1233.1c](#)); or
- The putative birth father named by the birth mother denies under oath and in writing the paternity of the child (§ [63.2-1202](#)).

When the consent of one parent has been obtained, the consent of the other parent may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable (§ [63.2-1203 A](#)).

The circuit court may grant the petition without consent under one of the following conditions:

- **Fifteen days** have elapsed since the party or parties whose consent is required received personal service of the notice of the petition for adoption; or
- **Ten days** have elapsed since the execution of an order of publication against the party or parties whose consent is required and personal service is unobtainable;
- Upon the filing of a death certificate for the deceased parent with the court; or
- If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

If the birth parent who is a resident of Virginia decides to place the child for adoption in another state and the laws of that other state govern the proceedings for the adoption, the birth parent may elect to waive the execution of and instead execute consent to the adoption pursuant to the laws of the receiving state.

When waiving Virginia law and using the laws of the other state, a written waiver *must* be executed under oath and include:

- A statement that the birth parents received independent legal counsel from an attorney licensed in Virginia who explained the laws of Virginia and the laws of the other state where the birth parent desired to use those laws for the adoption.

This statement *must* also include that information was given to the birth parents of the effects of waiving their consent in Virginia for the consent process of the other state.

- A statement that the birth parent elects not to use the consent procedures of Virginia but instead use the laws of the other state where the child was placed.
- The name, address, and telephone number of the attorney whom provided the independent legal counsel.

Failure to follow these procedures will render any waiver of consent pursuant to [§ 63.2-1233](#) invalid.

6.4.4 Duties of the juvenile court in a parental placement before the adoption petition is filed in circuit court

The duties of the juvenile and domestic relations court in a parental placement adoption do not require any action by the CPA. However, the CPA should be knowledgeable of what actions the court may take in hearing the adoption petition.

The court must advance the consent proceedings on the docket to be heard within **ten days** of filing of the petition, or as soon thereafter as practicable ([§ 63.2-1230](#)).

Consent *must* be executed:

- In the juvenile and domestic relations court in the locality where the child to be adopted was born; in the locality where the birth parents reside; or in the locality where the prospective adoptive parents reside ([§ 16.1-243 1c](#)); or
 - 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 Virginia court pursuant to [§ 20-146.11](#) ([§ 63.2-1230](#)).
- By the birth parents while before the juvenile and domestic relations court in person and in the presence of the prospective adoptive parents ([§ 63.2-1233](#)).

If the child was placed by the birth parents 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 consent of either birth parent and enter an order waiving consent and transfer/ring custody of the child to the prospective adoptive parents ([§ 63.2-1233 4](#)).

- Transferring custody becomes effective immediately.

- 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.
 - The consent of the birth parents is withheld contrary to the best interests of the child or is unobtainable.

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 *must* 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 ([§ 63.2-1205](#)):

- The birth parents' efforts to obtain or maintain legal and physical custody of the child.
- Whether the birth parents are currently willing and able to assume full custody of the child.
- Whether the birth parents efforts to assert parental rights were thwarted by other people.
- The birth parents' ability to care for the child.
- The age of the child.
- The quality of any previous relationship between the birth parents and the child and between the birth parents and any other minor children.
- The duration and suitability of the child's present custodial environment.
- The effect of a change of physical custody on the child.

Before accepting a consent that is executed in court, the juvenile and domestic relations court *must* determine that:

- The child is at least three days old ([§ 63.2-1233](#)).

Child and Family Services Manual

F. Adoption

- The birth parents 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 (§ [63.2-1232 A13](#)).
- A licensed or duly authorized CPA 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; the prospective adoptive parents' decision is informed and uncoerced; and they intend to file an adoption petition and proceed toward a Final Order of Adoption (§ [63.2-1232 A2](#)).
- The birth parents and adoptive parents have exchanged identifying information including 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 (§ [63.2-1232 A3](#)).
- 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 (§ [63.2-1232 A5](#)).
- There has been no violation of law in connection with the placement (§ [63.2-1232 A5](#)).
- A licensed or duly authorized CPA has conducted a home study of the prospective adoptive home 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 (§ [63.2-1232 A6](#)).
 - The court can waive the requirement of the simultaneous meeting where the opportunity for compliance is not reasonably available under the applicable circumstances (§ [63.2-1233 4](#)).
- The birth parents have been informed of their opportunity to be represented by legal counsel (§ [63.2-1237](#)).
- If any of the above requirements have not been met, the juvenile and domestic relations court *must* refer the birth parent to a licensed or duly authorized CPA for investigation and recommendation (§ [63.2-1232 B](#)).

Consent *must* be revocable as follows (§ [63.2-1234](#)):

Child and Family Services Manual

F. Adoption

- 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 ten days old and the consenting birth parent acknowledges having independent legal counsel regarding the effect of the waiver (§ [63.2-1234](#)).
- Revocation *must* be in writing, signed by the revoking party or counsel of record for the revoking party, and filed with the clerk of 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 *must* 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.
- 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 (§ [63.2-1234 2](#)).

After accepting consent, the juvenile and domestic relations court *must* 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 (§ [63.2-1233](#)).

- The juvenile and domestic relations court *must* review such orders of appointment at least annually until such time as the Final Order of Adoption is entered (§ [63.2-1233](#)).
- 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, the child *must* not be removed from the physical custody of the adoptive parents, except (§ [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](#), *when any child, placed by an LDSS or LCPA while still in the custody of the agency or while the agency has been*

ordered to provide supervision, is subjected to unwholesome influences or to neglect or mistreatment, or when the Commissioner has ordered it, the LDSS or LCPA must make arrangements to remove the child from the home. The Commissioner has the authority to remove or direct the removal of any child placed by an LDSS or an LCPA from a home that fails to comply with any state or federal requirements intended to protect the child's health, safety, or well-being.

- Upon order of the court which accepted consent when consent has been revoked as authorized by [§ 63.2-1204](#) or [63.2-1223](#).

After the expiration of the appropriate revocation period ([§ 63.2-1206](#)):

- When a birth parent or an alleged birth parent attempts to obtain or regain custody or attempts to exercise parental rights to a child who has been placed for adoption, there *must* be no parental presumption in favor of any party.
- 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 *must* determine:
 - Whether the birth parent or alleged birth parent is a person whose consent to the adoption is required.
 - 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.
- If the juvenile and domestic relations court suspects that 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 *must* report the findings to the Commissioner for investigation ([§ 63.2-1218](#)).
- When services have been provided by an LDSS, the court *must* assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not accept parental consent until proof of payment of fees has been received ([§ 63.2-1248](#)).
- If the juvenile and domestic relations court determines that the placement will be contrary to the best interests of the child, the court *must* 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 *must* determine custody of the child ([§ 63.2-1235](#)).

6.4.5 Duties of the Commissioner in a parental placement adoption when reports of suspected violations of law in the placement and adoption

When reports of suspected violations of law in the placement and adoption of the child are received by the Commissioner, the Commissioner *must* ([§ 63.2-1218](#)):

- Investigate the suspected violation and take appropriate action when the investigation reveals that:
 - There may have been a violation of law; the Commissioner *must* report *their 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 *must* also report his/her findings to the appropriate regulatory authority for investigation and appropriate disciplinary action ([§ 63.2-1219](#)); or
 - The violation involves engaging in the activities of a CPA without a license, the Commissioner may file suit with the court of record having chancery jurisdiction ([§ 63.2-1701](#)).
- 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 ([§ 63.2-1217](#)).

6.4.6 Duties of the circuit court in a parental placement adoption after the adoption petition is filed in circuit court

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The clerk of court where the petition is filed sends a copy of the petition, the Interlocutory Order or *Order of Reference*, and all exhibits to the CPA, whichever agency completed the home study required by [§ 63.2-1231](#). A copy is also sent to the Commissioner ([§ 63.2-1209](#)).

- The petition *must* be signed by the petitioner and counsel of record, if any ([§ 63.2-1237](#)).

Child and Family Services Manual

F. Adoption

- In any case in which the petition seeks the entry of an adoption order without referral for investigation, the petition *must* be under oath ([§ 63.2-1237](#)).

The circuit court *must* not accept a petition in a parental placement unless:

- Copies of documents executing consent, transferring custody to the petitioners, and the home study are filed with the petition ([§ 63.2-1237](#)).
- The circuit court has determined that the findings required by law have been made by the juvenile and domestic relations court.

When all legal requirements related to executing consent pursuant to ([§ 63.2-1232](#)) have been met, the circuit court may dispense with the Order of Reference or and enter an Interlocutory Order.

In those parental placements where an Order of Reference or an Interlocutory Order is entered, the circuit court *must* expeditiously consider the merits of the petition upon receipt of the report ([§§ 63.2-1208 B](#) and [63.2-1212 A](#)).

The court may take any action it finds appropriate if the report is not submitted in the specified time.

When the court takes no action 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 ([§ 63.2-1214](#)).

The clerk of court sends a copy of any order entered to the agency and to the Commissioner ([§ 63.2-1238 A](#)).

Upon entry of a Final Order of Adoption or any other final disposition, the clerk of court forwards all reports submitted with the Final Order of Adoption to the Commissioner for preservation ([§ 63.2-1246](#)).

When services have been provided by an LDSS, the court *must* assess a fee in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

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 ([§ 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 (See [Section 3.11.1](#) for more information on the Report of Adoption form).

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 ([§ 32.1-262](#)).

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 *must* not be subject to attack in any proceedings, collateral or direct, for any reason, including fraud, duress, failure to give any required notice, failure of any procedural requirement, or lack of jurisdiction over any person, and the Final Order of Adoption *must* be final for all purposes ([§ 63.2-1216](#)).

6.4.7 Duties of the attorney in a parental placement adoption after the adoption petition is filed in circuit court

The following are duties of the attorney for the adoptive family. These duties do not fall under the purview of the agency and require no action on the part of the agency.

Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- Files the petition which *must* state that the findings required by ([§ 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.
 - A copy of the home study required by ([§ 63.2-1231](#)).
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the child.

6.4.8 Duties of the Commissioner in a parental placement adoption after the adoption petition is filed in circuit court

The VDSS, Adoption Unit is the office which carries out the duties of adoption for the Commissioner. These duties include:

- 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 (§ [63.2-1246](#)).
- Accepting for preserving, adoption cases including related exhibits (§§ [63.2-1238](#) and [63.2-1212](#)).
- Arranging through the ICPC for investigation and supervisory visits to be made when an out-of-state/country agency is involved (§ [63.2-1240](#)).

6.4.9 Responsibilities of the agency in a parental placement after the adoption petition is filed in circuit court

6.4.9.1 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 CPA may review the petition to be sure the petition is filed in the court having jurisdiction where the petitioners reside, or in the locality or city in which the birth parent executed a consent, or the locality or city in which the CPA that placed the child is located and the case has been referred to the proper agency. The petition must be signed by the petitioner and by counsel, if any.

In a parental placement, the petition *must* state that the findings required by (§ [63.2-1232](#)) have been met and should 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.
- A copy of the home study required by (§ [63.2-1231](#)).

6.4.9.2 Acknowledge the Interlocutory Order or Order of Reference

In a parental placement adoption, if the other requirements of ([§63.2-1230 through 63.2-1240](#)) were met, the circuit court may dispense with an investigation and proceed with the entry of an Interlocutory Order *or* Order of Reference. The agency which completed the home study required by (§ [63.2-1231](#)) is responsible for providing supervision after the entry of the Interlocutory Order *or* Order of Reference. The agency *must* review and acknowledge to the court receipt of the Interlocutory Order *or* Order of Reference. A copy of the

acknowledgment should be sent to the VDSS Adoption Records Specialist in the VDSS Adoption Unit.

6.4.9.3 Supervision of the placement

The circuit court reviews the home study when it is satisfied that all the requirements have been complied with, the petitioner is financially able to maintain the child, is morally suitable and a proper person to care for and train the child, the child is suitable for adoption by the petitioner, and the best interests of the child will be *met* through adoption; the court *must* enter an Interlocutory Order or an *Order of Reference*.

An Interlocutory Order declares that subject to the probationary period prior to the filing of the Final Order of Adoption that that the child *is* for all purposes the child of the petitioner.

6.4.9.4 Make supervisory visits

The purpose of supervisory visits should be for regular and ongoing support, monitoring and counseling of the family, and to document the progress of the placement. Since the goal of these visits is to facilitate the integration of the child into the family, the number of visits should be determined by the special needs of the child and the family for a successful adoptive home.

The agency *must* make at least three visits to the child within a six-month period following the date the Interlocutory Order is entered ([§ 63.2-1212](#)). 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 one of the petitioners is no longer residing in the home.
- Visits *must* be scheduled *with no less than* 90 days 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 *they* desire to remain a party to the proceedings. The report to *the* court *must* include the results of the contact.
- If the petitioners move 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 through the ICPC.

- An Interstate Compact form (100a) is completed and forwarded to ICPC at the VDSS with a cover letter clearly stating the needed services and any collateral materials the out-of-state agency may need.
- After the entry of the Interlocutory Order, the court is the sender and no longer the agency (§ [63.2-1240](#)).
 - Collateral material would include social and medical information on the child and birth parents and the home study on the adoptive family. A copy of the Interlocutory Order is also included in the materials.

The circuit court may, with good cause shown, omit the requirement that the three visits be made within a six-month period.

6.4.10 Adoption recommended by birth parents, physicians, Virginia licensed attorneys, and clergymen

A designated adoption is an adoption where the birth parents or a person other than a CPA 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 (§ [63.2-1226](#)).

The birth parents can request the LDSS to accept custody of a child by signing a Permanent Entrustment Agreement or by petitioning the court to be relieved of their rights.

- When a CPA is requested to accept custody of a child for the purpose of placing the child with adoptive parents recommended by the birth parents) or a person other than someone recommended by a CPA, either the parental placement provisions or the agency provisions *must* apply to the adoption at the election of the birth parents (§ [63.2-1226](#)).

The agency *must*:

- Provide information to the birth parents on the parental placement adoption procedures and the agency placement adoption procedures.
- Provide the birth parents with the opportunity to be counseled by a service worker.

- Provide the birth parents with the opportunity to be represented by independent legal counsel.
 - The documentation for the method chosen to provide these services should be kept with the child's record.
- The agency should determine if an approved home study has been completed on the prospective adoptive family.
 - 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.
 - If a home study has not been completed, a home study *must* be initiated accordingly:
 - When the birth parents elect the LDSS placement adoption procedures, the agency initiates a home study of the prospective adoptive parents.
 - When the birth parents elect the non-agency placement adoption procedures, the LCPA initiates a home study of the prospective adoptive parents.
 - If the prospective family lives out of state, the agency *must* use the ICPC procedures to obtain an approved home study from the other state.

6.5 Close relative adoptions

A close relative adoption *must* be an adoption by the child's adult relatives, including stepparents, stepbrothers, stepsisters, and all other adult relatives of the child by marriage or adoption.

Chapter 12 of the Code of Virginia §§ [63.2-1242.1](#) through [63.2-1242.3](#) provides guidance on the provisions for close relative adoptions in the Commonwealth.

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.

In a close relative placement, the court may accept written consent signed under oath by the birth parents and notarized. The birth parent does not have to execute consent in court.

Child and Family Services Manual**F. Adoption****6.5.1 Close relative placement for a child who has been in the home less than two years**

When a child who continuously resided in the home or has been in the continuous physical custody of a close relative for less than two years:

- The adoption proceedings, including the court approval of the home study, *must* begin in the juvenile and domestic relations district court pursuant to the parental placement adoption provisions according to [§63.2-1232](#).

Exceptions to the parental placement adoption proceedings are:

- The birth parents' consent does not have to be executed in juvenile and domestic relations district court in the presence of the prospective adoptive parents.
- The simultaneous meeting specified in [§63.2-1231](#) is not required.
- No hearing is required for this proceeding.

The close relative may file in circuit court after the juvenile and domestic relations district court:

- Issues an order accepting the consents or otherwise deals with the birth parents rights.
- Appoints the close relative custodians of the child.

6.5.2 What is needed to file in circuit court

- When the home study is filed with the circuit court an Order of Reference, investigation, and Report of Investigation *must* not be made unless the circuit court in its discretion requires an investigation and Report of Investigation to be made.
- The circuit court may omit the probationary period and the Interlocutory Order and enter a Final Order of Adoption. The circuit court may waive appointment of a guardian ad litem (GAL) for the child who is subject to a close relative adoption ([§ 63.2-1242.2](#)).
- If the circuit court determines the need for an additional investigation, it *must* refer the matter to the CPA that completed the home study. The CPA *must* complete the report in the timeframe specified by the circuit court.
- No hearing is required in the juvenile and domestic relations court.

6.5.3 Close relative placement for a child who has been in the home two or more years

When a child who continuously resided in the home or has been in the continuous physical custody of a close relative for two years or more, the adoption proceeding of the parental placement provisions *must* not apply and the adoption proceeding *must* begin in the circuit court according to [§ 63.2-1242.3](#).

The circuit court may waive appointment of a GAL for the child who is subject to a close relative adoption ([§ 63.2-1242.3](#)).

6.5.4 Finalizing the adoption

An Order of Reference, investigation, and Report of Investigation *must* not be made unless the circuit court in its discretion requires an investigation and Report of Investigation to be made.

The circuit court may omit the probationary period and the Interlocutory Order and enter a Final Order of Adoption.

In the event that the circuit court determines that there is a need for an investigation, it *must* be referred to the local director of the LDSS for an investigation and report.

6.5.5 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 CPA 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 time frame determined by the circuit court. In this case, the agency has the responsibility to complete the investigation and report to the circuit court as required in [§ 63.2-1208](#).

6.5.5.1 Set up case records

A close relative adoption case record, where the circuit court has entered an Order of Reference and/or an Interlocutory Order, should contain the following documents:

- Service Application
 - When the Order of Reference and/or Interlocutory Order are received by the agency, the court order serves as the Service Application.

- All court orders.
- Report of Investigation/Home Study
- Report of Visitation
- All correspondence
- Narrative

6.5.5.2 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.

The petition should be reviewed to verify the petition is filed in the locality the petitioner lives, in the locality the CPA that placed the child is located, in the locality the birth parent executed a consent pursuant to [§63.2-1233](#), or where the petitioners reside and the case has been referred to the appropriate agency ([§ 63.2-1201](#)).

The petition *must* be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).

6.5.5.3 Review the Interlocutory Order or Order of Reference

In this type of close relative adoption 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.

When the Interlocutory Order or Order of Reference is entered, the agency must review and acknowledge to the court receipt of the order. A copy of the acknowledgment must be sent to the VDSS Adoption Unit.

6.5.5.4 Complete the investigation if ordered at the discretion of the circuit court

When the circuit court requires an investigation, the following areas *must* be addressed ([§§ 63.2-1208](#) and [63.2-1238](#)):

- *Are the petitioners financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child?*
- *What is the physical and mental condition of the child?*

Child and Family Services Manual

F. Adoption

- Why *do* the parents, if living, desire to be relieved of the responsibility for the custody, care, and maintenance of the child, and what *is* their attitude toward the proposed adoption?
- *Did* the parents abandon the child, or are *they* morally unfit to have custody over them?
- *What are the* circumstances under which the child came to live and is living in the home of the petitioners?
- *Is the* child a suitable child for adoption by the petitioners?
- What fees have been paid by the petitioners or on their behalf to persons or agencies which have assisted them in obtaining the child?

Ensure that the investigation required by [§ 63.2-1208](#) includes:

- 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 should be made by mail or telephone, or through another agency.
 - When a letter is sent to the parents of a child born out-of-wedlock, it *must* be delivered to the addressee only and a return receipt requested
 - References *must* be contacted in person, by mail, or telephone.
 - Professional persons concerned with the case.
- Visits to the adoptive home
- Information on the adoptive parents' income in order to determine the fee assessed

If unable to complete the investigation the court and subsequent report within 60 days or another time frame ordered by the court, the court and the VDSS Adoption Unit *must* be notified. The notification to the court should include a

request for additional time to complete the investigation and include the reasons for the delay or inability to complete the investigation and subsequent report in the allotted period of time.

If the petitioners cannot be contacted in order to conduct the investigation, the agency *must* submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency should request the help of an out-of-state/country agency through ICPC.

- Send a 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 petitioners a copy of the report.
- Keep a copy in agency's file until final disposition.
- If a letter of opposition to the adoption is received from the birth parents, the letter is to be sent to the court with the report. A copy is sent to the attorney and to the VDSS Adoption Unit. A copy is kept in the agency's file.
- The agency should submit any additional information requested by the VDSS Adoption Unit.
- In those instances where an LDSS has provided services and the court may enter a final order, the agency *must* include a statement as to the amount of the fee assessed and whether the fee has been paid. Proof of payment of the fee *must* be provided by the LDSS to the court prior to the entry of the final order ([§ 63.2-1248](#)).

6.5.5.5 Conduct the supervisory visits

In a close relative adoption, the court at its discretion can omit the probationary period and an Interlocutory Order and enter a Final Order of Adoption. If the circuit court determines that there is a need for additional investigation and reports, the agency which completed the home study *must* complete the supervision and reports in the time designated by the court. The Interlocutory Order supervisory visits *must* be made in accordance with ([§ 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.

- Visits *must* be scheduled so that no less than 90 days elapse between the first and last visit.
- 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.
- If one of the petitioners is no longer living in the home, the agency *must* contact that petitioner to determine if *they* desires to remain a party to the proceedings. The report to the court *must* include the results of the contact.
- 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 ICPC.

6.5.5.6 Complete the Required Report

The Report of Visitation is sent to the court within **30 days** of the last visit. *The Report of Investigation is sent to the court within 60 days of receiving the Order of Reference.*

6.5.5.7 Distribute copies of the report

Send copies to:

- Original to the court with the Certificate of Service
- VDSS Adoption Unit
- 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 a copy of the report to the petitioners.
- Agency keeps a copy in the agency's file until the final action by the court.

6.5.6 Duties of the attorney

In this type of adoption, the attorney has primary responsibility for the work that should be done. The CPA should be aware of these responsibilities although it may have no responsibility to provide services in such cases.

The attorney:

- Files the petition for adoption ([§ 63.2-1201](#)).
 - The petition *must* be signed by the petitioner and the petitioner's attorney, if any.
 - If the petition seeks entry of a final order without referral for investigation, the petition *must* be under oath.
- 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 two years, consent is executed in accordance with [§ 63.2-1202](#).

The consent *must* be in writing, signed by the birth parent under oath, and acknowledged by a notary public ([§ 63.2-1202](#)). Consent is from:

- The mother
- 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 (10) 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

- 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, *must* advise the birth father of his opportunity for legal counsel and *must* be presented to the court for acceptance.
- The consent may waive further notice of the adoption proceedings.
- 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.

If consent cannot be obtained from at least one parent, the court *must* deny the petition and determine custody of the child pursuant to [§ 16.1-278.2](#) unless all parents are deceased ([§ 63.2-1233.3](#)).

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](#)).

When the consent of one parent has been obtained, the consent of the other parent is not required:

- If the parent is deceased ([§ 63.2-1202](#));
- 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 ([§ 63.2-1202](#));
- 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 ([§ 63.2-1202](#)):
 - The birth mother swears under oath and in writing that the identity of the birth father is not reasonably ascertainable ([§ 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 ([§ 63.2-1233.1a](#)); or
 - The putative birth father named by the birth mother denies under oath and in writing the paternity of the child ([§ 63.2-1203](#)).

Child and Family Services Manual

F. Adoption

When the consent of one parent has been obtained, the consent of the other parent may be waived if the court determines that consent is being withheld contrary to the best interest of the child or is unobtainable. The circuit court may grant the petition without consent under one of the following conditions:

- **Fifteen days** have elapsed since the party or parties whose consent is required received personal service of the notice of the petition for adoption; or
- **Ten days** have elapsed since the execution of an order of publication against the party or parties whose consent is required and personal service is unobtainable;
- Upon the filing of a death certificate for the deceased parent with the court; or
- If the judge certifies on the record that the identity of any person whose consent is required is not reasonably ascertainable.

No consent *is* required from the 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 *is* the father entitled to notice of any of the adoption proceedings ([§ 63.2-1233.7](#)).

- Prepares the appropriate orders.
 - In this type of placement, neither an Order of Reference ([§ 63.2-1238](#)) nor an Interlocutory Order ([§ 63.2-1210.4](#)) needs to be entered. In most cases, a final order is filed with the petition and consent.
- Assists the petitioners in obtaining a new birth certificate for the child.

Before entering a Final Order of Adoption, the court *must* require the preparation of a Report of Adoption form (VS-21) furnished by the state registrar of vital records (See [Section 3.11.1](#) for more information about the Report of Adoption form).

The report *must*:

- 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.
- Identify the order of adoption and be certified by the clerk of court.

6.5.7 Duties of the circuit court when the child has resided in the home of the prospective adoptive parents continuously for at least two years

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The clerk of court where the petition is filed sends a copy of the petition, Order of Reference, or Interlocutory Order and all exhibits to the LDSS. A copy is also sent to the Commissioner. The petition *must* be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

If, after considering the 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 ([§ 63.2-1203](#)):

- **Ten days** after personal service of notice of the petition *or more than 13 days after the certified or express mailing date of the written notice, whichever occurs first*, on the party whose consent is required;
- If personal service is unobtainable, **10 days** after the completion of the execution of an order of publication against the party 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.
- An affidavit of the birth mother that the identity of the birth father is not reasonably ascertainable *must* be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit ([§ 63.2-1203 A](#)).
- The court may omit the Order of Reference and the Interlocutory Order and enter a Final Order of Adoption.
- In those parental placements where an Interlocutory Order is entered, visitations will be required ([§ 63.2-1212 A](#)), and 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:
 - Enter a Final Order of Adoption;

- Enter an Interlocutory Order;
- Deny the 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 ([§ 63.2-1209](#)).
- Dismiss the petition;
- Continue the proceeding; or
- Schedule a hearing.

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 ([§ 63.2-1214](#)).

The clerk of 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 ([§ 63.2-1213](#)).

When services have been provided by an LDSS, the court *must* assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

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.

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.

6.5.8 Duties of the Commissioner

The VDSS Adoption Unit and ICPC are the offices which carry out the duties of the Commissioner in adoptions. These duties include:

- 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 (§ [63.2-1246](#)).
- Monitoring and evaluating adoption cases and submitting reports to courts (§§ [63.2-1208 B](#) and [63.2-1212](#)).
- Arranging, through ICPC, for investigation and supervisory visits to be made when the petitioners move prior to completing the adoption.

6.6 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 section. However, when a former spouse is adopting, the consent of the birth parent is required (§ [63.2-1201.1](#)).

Chapter 12 of the Code of Virginia §§ [63.2-1241](#) through [63.2-1242](#) provides guidance on stepparent adoptions in the Commonwealth.

When a stepparent files a petition for adoption in circuit court, a national criminal background check *must* be completed on the stepparent at his/her cost (§ [19.2-392.02 H](#)). The court *must* consider the results of the national background check to determine whether an investigation is necessary (§ [63.2-1242](#)).

The investigation *must* be undertaken only if the court determines that there should be an investigation before a Final Order of Adoption is entered (§ [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.

6.6.1 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.

The steps for opening a case include the following:

6.6.1.1 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.
- Narrative.

If two children are on the same petition, only one case is opened.

6.6.2 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.

The petition and Order of Reference should be reviewed to ensure the petition is filed in the court having jurisdiction 1) where the petitioners reside, or 2) in the locality where the birth parents executed consent occurred ([§ 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 ([§ 63.2-1201](#)).

The petition *must* ask permission to adopt a minor child who is not legally the petitioner's by birth.

If the agency receives an Order of Reference in either of the following cases, the agency should contact ICPC to request assistance with completion of the investigation.

- The petitioners are legal residents of Virginia but are living outside the state; or
- The petitioners move from the state after the petition is filed.

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 should be contacted by the CPA 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.

If the petitioners move from the agency's jurisdiction but within Virginia or if it appears to be in the best interest of the child for another agency to make the investigation, the agency should 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 may be requested in writing by the agency ordered to make the investigation.

6.6.2.1 Respond to inquiries made during the investigation

If an investigation is required by the court, the following items from the Code of Virginia §§ [63.2-1208.D](#) and [63.2-1242](#) are to be addressed:

- Are the petitioners financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the child? A child protective service check and references are not needed.
- *What is* the physical and mental condition of the child? Medical reports are not needed.
- Why the parents, if living, desire to be relieved of the responsibility for the custody, care and maintenance of the child, and *what is* their attitude toward the proposed adoption.
- *Did* the parents abandon the child, or are *they* morally unfit to have custody over them?
- *What are* the circumstances under which the child came to live *with* and be in the physical custody the petitioner?
- *Is the* child a suitable child for adoption by the petitioner?
- What fees have been paid by the petitioner or on their behalf to persons or agencies which have assisted them in obtaining the child?
- The report *must* include the physical and mental history of birth parents, if it is known.

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 parents. A list of reports given to the prospective adoptive parents *must* also be submitted with the Report of Investigation.

6.6.2.2 Perform the investigation

The investigation includes 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 a face-to-face interview is not possible, contact should be made by mail, telephone, or through another agency.

- When a letter is sent to the parents 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.
- Contact professional persons concerned with the case.

The investigation also includes:

- 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.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation, the court and the VDSS Adoption Unit *must* be notified if the investigation and report are delayed and cannot be completed within 60 days ([§ 63.2-1208 B](#)).

A report should be sent to the court with a request for additional time to complete the investigation. The report should include the reasons 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 should submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency should request the assistance of an out-of-state agency, through ICPC in completing the investigation.

6.6.2.3 Prepare the Report of Investigation

The format of the report should be that recommended by the VDSS Adoption Unit.

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 should contain a recommendation as to the action to be taken by the court.

6.6.2.4 Distribute copies of the report

Send copies to:

- Original to the court with the Certificate of Service showing that a copy of report was sent to the VDSS Adoption Unit ([§ 63.2-1208](#)).
- VDSS Adoption Unit with a completed Commissioner's Confidential Report.
- 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.
- Keep a copy in the agency's file until final disposition.

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 VDSS Adoption Unit with the copy of the report. A copy is kept in the agency's file.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where the court may enter a final order, the agency *must* 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 LDSS which completed the investigation and court report, to provide proof of payment of the fee.

6.6.2.5 Submit 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 additional time to complete the report.

6.6.2.6 What should 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 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 (§ [63.2-1216](#)).

6.6.2.7 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 VDSS Adoption Unit. The agency should advise the court of any problem that could affect the legality of the adoption.

The agency should purge the record of duplicate material and send original copies of all pertinent material that has not been sent to the VDSS Adoption Unit for preservation.

6.6.2.8 Case closing

The case should be closed when the Final Order of Adoption is received.

6.6.3 Duties of the attorney

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating stepparent adoptions. Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court. The attorney:

- Files the petition, which *must* be signed by the petitioner and counsel of record (§ [63.2-1201](#)).
- Obtains required consents.
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.
- Assists the petitioners in obtaining a new birth certificate for the child.

6.6.4 Duties of the Commissioner

The VDSS Adoption Unit carries out the duties of the Commissioner in stepparent adoptions. These duties include:

- 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.
- Monitoring adoption cases and submitting reports to courts when necessary.

6.6.5 Duties of the circuit court

The duties of the circuit court do not require action by the agency but agencies should be aware of the responsibility of the court in facilitating stepparent adoptions.

If the petition is executed under oath and in writing, the court may, without an investigation, enter a final order in accordance with code [§ 63.2-1213](#) when:

- A natural parent, whose spouse has died, marries again, and the surviving parent and new spouse petition for adoption ([§ 63.2-1241 A](#)); or
- A legitimate child of a divorced parent is being adopted by a stepparent and the other natural parent has consented to the adoption ([§ 63.2-1241 B](#)); or
- A mother of an illegitimate infant marries, and her husband desires to adopt, provided ([§ 63.2-1241 C](#)):
 - The birth father consents;
 - The mother executes an affidavit that the identity of the father is not known or not reasonably ascertainable;
 - The putative father denies paternity under oath and in writing, according to [§ 63.2-1202](#);
 - The child is 14 years of age and has lived in the petitioners' home for at least five years;
 - The alleged father is deceased;
 - The non-custodial birth parent executes a denial of paternity under oath and in writing; or
 - The non-custodial birthparent:

Child and Family Services Manual

F. Adoption

- Is not an acknowledged father.
- Is not adjudicated father.
- Is not a presumed father.
- Is a putative father who has not registered with the Virginia Birth Father Registry and if his identity is reasonably ascertainable, he has been provided notice to register with the [Virginia Birth Father Registry](#) and has failed to register in a timely manner?
- A single person who adopted a child marries and files a petition with his or her spouse ([§ 63.2-1241 D](#)).

The investigation and report *must* be undertaken only if the court in its discretion determines that there should be an investigation before a Final Order of Adoption is entered ([§ 63.2-1242](#)). If the court makes such a determination, it *must* refer the matter to the local director of social services.

The clerk of circuit court where the petition is filed sends a copy of the petition, Order of Reference, and all exhibits to the director of the LDSS and to the VDSS Adoption Unit. The petition *must* be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

The court will expeditiously consider the merits of the petition when the report is received ([§§ 63.2-1208 A](#) and [63.2-1242.2](#)).

The court may take any action it finds appropriate if the report is not submitted in the specified time ([§§ 63.2-1242](#) and [63.2-1208 B](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the 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 [§ 63.2-1210 1](#)).

Child and Family Services Manual

F. Adoption

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 ([§ 63.2-1203 A](#)) provided that:

- Twenty-one days have elapsed since personal notice of the petition was served on the persons 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, ten days have elapsed after the completion of the execution of an order of publication against the persons 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.

The court does not require consent when:

- The birth father is convicted of:
 - Rape;
 - Carnal knowledge of a child between the ages of 13 and 15; or
 - Adultery or fornication with his daughter or granddaughter, or his mother; and
 - The child was conceived from this action ([§ 18.2-366 B](#)).
- A parent is deceased ([§ 63.2-1203 B](#));
- 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 ([§ 63.2-1202](#));
- A birth father denies under oath and in writing the paternity of the child. The denial cannot be withdrawn after ten days. Once the child is ten days old, any denial of paternity is final and constitutes a waiver of all rights,
- The parent has not visited or contacted the child for a period of six months without any justification ([§ 63.2-1202](#));
- A child born outside wedlock ([§ 63.2-1202](#));

- The father's identity is unknown;
- The putative father consents to the termination of all of his parental rights before the child is born (§ [63.2-1202](#));
- 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 (§ [63.2-1233 1c](#)); or
- Once proper notice has been given and the non-consenting parent fails to appear in court either in person or by counsel the non-consenting parent waives any objection and right to consent to the adoption (§ [63.2-1202](#)).

A death certificate for a deceased birth parent can be submitted to the court as evidence that the consent is not required (§ [63.2-1203 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.

The clerk of court sends to the agency and to the VDSS 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 VDSS Adoption Unit for preservation.

When services have been provided by a LDSS, the court *must* assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not enter a Final Order of Adoption until proof of payment of fees has been received (§ [63.2-1248](#)).

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.

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 (§ [32.1-262](#)).

6.7 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.

Chapter 12 of the Code of Virginia §§ [63.2-1243](#) through [63.2-1244](#) provides guidance on adult adoptions in the Commonwealth.

6.7.1 Specifics for Adult Adoption

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:

- A stepchild parented by the petitioner at least three months;
- A child who is adopted by a close relative as defined in § [63.2-1242.1](#) as grandparent, great-grand parent, adult nephew or niece, adult sibling, 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 18.

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 (§ [63.2-1244](#)).

- The person to be adopted *must* be at least 15 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.

The circuit court may also, in its discretion, require an investigation in any adult adoption.

6.7.2 Responsibilities of the agency in adult adoption

When the circuit court requires an investigation, the agency *must*:

6.7.2.1 Set up a case record

A case record should contain the following documentations:

- Service Application (court order).

- All court documents.
- Report of Investigation.
- All correspondence.
- Narrative.

6.7.2.2 Review the petition and *the Order*

The petition is a written request filed with the court by prospective adoptive parents asking the court to legalize a relationship with an (adult) child.

The petition and Order of Reference *or Interlocutory Order* should be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioners reside and the case has been referred to the proper agency. The petition *must* be signed by the petitioner and by the counsel, if any ([§ 63.2-1201](#)).

If an Order of Reference *or an Interlocutory Order* is entered in one of the situations 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 *or Interlocutory Order* is not rescinded, the agency is responsible for making the investigation and report.

If the petitioners move 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 requests 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.
- The Order of Reference *or Interlocutory Order must* be acknowledged to the court with a copy to the VDSS Adoption Unit. The acknowledgement *must* show the date of receipt of the order and the name of the agency ([§ 63.2-1208](#)).

6.7.2.3 Make inquiries during the investigation

In those cases in which an investigation *must* be made, the Report of *Investigation* to the court *must* be made within 60 days after the copy of the

petition is forwarded, or the *Report of Visitation to the court must be made within 30 days of completing the last required visit* (§§ [63.2-1243](#) and [63.2-1208 B](#)).

The Code requires the following questions to be answered (§ [63.2-1208](#)):

- Are the petitioners financially able, morally suitable, in satisfactory physical and mental health, and a proper person to care for and train the person to be adopted?
- *What is the physical and mental condition of the person to be adopted?*
- Why do the birth parents (if applicable) of the person to be adopted desire to be relieved of the responsibility for the custody, care, and maintenance of the person to be adopted and what their attitude is toward the proposed adoption?
- *Did the parents (if applicable) abandon the person to be adopted, or are they morally unfit to have custody over them?*
- *What are the circumstances under which the person to be adopted came to live and is living in the home of the petitioners?*
- What fees have been paid by the petitioners or on their behalf, if appropriate?
- What is the 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.

6.7.2.4 Perform the investigation

The investigation includes:

- Interviews with:
 - Adoptive parents.
 - The person being adopted.
 - References - contact in person, by mail, or telephone.

- Professional persons involved with either the petitioners or person to be adopted.
- A home visit.
- Medical statements on the adoptee and adoptive parents in non-relative cases.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation:

- The court and the VDSS Adoption 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 requesting additional time to complete the investigation. The report *must* include the reasons 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 to complete the investigation, the agency is to submit a report to the court and recommend the petition be dismissed.

6.7.2.5 Prepare the required report

The format of the report *must* be that recommended by the VDSS Adoption Unit.

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](#) and [63.2-1244](#)).

6.7.2.6 Distribute copies of the report

- Send original to the court with Certificate of Service showing copy of report was sent to the VDSS Adoption Unit.
- Send one copy to the VDSS Adoption Unit with the completed Commissioner's Confidential Report.

- 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 petitioners a copy of the report.
- Keep a copy in the agency's file until final disposition.

The agency should submit any additional information requested by the VDSS Adoption Unit. In those instances where the court may enter a final order, the agency *must* 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 LDSS which completed the investigation and court report to provide proof of payment of the fee (§ [63.2-1248](#)).

6.7.2.7 What *must* be done following entry of an Interlocutory Order, if the court in its discretion decides to enter the order

6.7.2.7.1 Conduct supervisory visits

The agency *must* make at least three visits within a six-month period following the date the Interlocutory Order is entered (§ [63.2-1212](#)).

- The visits *must* be in the presence of the adopted person.
- One visit *must* be in the home of the petitioners 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 should contact that petitioner to determine if he or she desires to remain a party to the proceedings. The report to court *must* include the results of the contact.

If the petitioners move from Virginia prior to completion of three visits, the agency should 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 requirements of ICPC does not apply.

6.7.3 Report of Visitation

The Report of Visitation is sent to the court **within 30 days** of the last visit.

6.7.4 Distribute copies of the report

- Send original to the court with Certificate of Service.
- Send one copy to the VDSS Adoption 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 petitioners a copy of the report.
- Keep one copy in agency's file until final action by the court.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where an LDSS has provided services and the court may enter a final order, the agency *must* include a statement as to the amount of the fee assessed and whether the fee has been paid.

Proof of payment of the fee *must* be provided by the LDSS to the court prior to the entry of the final order ([§ 63.2-1248](#)).

6.7.5 Duties of the attorney in an adult adoption

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating 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:

- Files the petition which *must* be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).
- Obtains required consents (in an adult adoption, only the consent of the person to be adopted is required) ([§ 63.2-1243 a](#)).
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.

- Assists the petitioners in obtaining a new birth certificate for the person being adopted.

6.7.6 Duties of the court

The CPA should be aware of these responsibilities of the court although it will have limited responsibility for providing services in these cases unless requested by the court.

The investigations and visitations *must* not be required unless the court, in its discretion, so requires ([§ 63.2-1244](#)).

The clerk of court where the petition is filed sends a copy of the petition, Order of Reference or Interlocutory Order, and all exhibits to the director of the LDSS and to the Commissioner. The petition *must* be signed by the petitioner and by counsel, if any ([§ 63.2-1201](#)).

The circuit court *must* expeditiously consider the merits of the petition upon receiving the Report of Investigations ([§ 63.2-1208](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the proceeding;
- Schedule a hearing; or
- Enter an Interlocutory Order (an Interlocutory Order is not required in an adult adoption and is seldom entered by the court).

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 ([§ 63.2-1212](#)).

The clerk of 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 of court forwards all reports submitted with the final order to the Commissioner for preservation. ([§ 63.2-1213](#))

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 ([§ 63.2-1244](#)):

- A stepchild parented by the petitioner at least three months;
- A child adopted by a close relative as defined as a grandparent, great-grandparent, an adult nephew or niece, adult sibling, adult uncle or aunt, or adult great uncle or great adult who has lived in the home at least three months;
- A birth child; or
- Any adult who has resided in the home at least three months before age 18.

When services have been provided by an LDSS, the court *must* assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

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 ([§ 63.2-1248](#)).

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.

6.7.7 Duties of the Commissioner

The VDSS Adoption Unit is the office which carries out the duties of the Commissioner in adoptions. These duties include:

- 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 ([§ 63.2-1246](#)).
- Monitoring and evaluating adoption cases and submitting reports to courts ([§ 63.2-1244](#)).

6.8 Intercountry adoptions

Inter-country 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 finalizing the 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.

6.8.1 Pre-adoptive requirements

Prior to bringing a foreign born child into Virginia, the prospective adoptive parents should 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](#).

An IR-3 visa is issued when a full and final adoption is completed abroad. It requires that the adoptive parents physically see the child prior to or during the adoption proceedings. Children with this visa automatically acquire citizenship if they enter the United States prior to their 18th birthday. If they are under 18 years old, they are automatically U.S. citizens upon admission to the United States and they reside with their parents in the United States.

An IH-3 visa is issued for children with full and final adoptions from a Hague Convention Country. Children with this visa automatically acquire citizenship if they have entered the United States prior to their 18th birthday, if they are under 18 years old, they are automatically United States citizens upon admission to the United States and they reside with their parents in the United States.

When a child enters the country with either an IR-3 or IH-3 visa as issued by the United States Citizenship and Immigration Services, the adoptive parents *are not* be required to readopt the child in Virginia.

It is recommended for a child adopted in a foreign country that re-adoption in the state of Virginia be considered to obtain a Virginia birth certificate; this will assist in establishing a preserved adoption file in the state of Virginia.

6.8.2 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.

6.8.3 Responsibilities of the LDSS 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 LDSS in the locality where the petitioners reside.

6.8.3.1 Open the case

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.

6.8.3.1.1 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.
- Narrative.

If two children are on the same petition, only one case is needed.

6.8.3.2 Review the petition and Order

The petition for adoption is usually accompanied by an Order of Reference or an *Interlocutory Order* directing an agency to make an investigation and report.

The petition and Order of Reference or *Interlocutory Order* should be reviewed to be sure the petition is filed in the court having jurisdiction where the petitioners reside 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 ([§ 63.2-1201](#)).

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.

If the petitioners move 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 in writing by the agency ordered to make the investigation.

The Order of Reference *or Interlocutory Order must* be acknowledged to the court with a copy to the VDSS Adoption Unit. The acknowledgment should show the date of receipt of the order and the name of the agency.

6.8.3.3 Perform the investigation

The investigation includes:

- Interviews with:
 - Adoptive parents.
 - Child, if of the age to participate.
- 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.
- Information on the adoptive parents' income in order to determine the fee assessed.

If unable to complete the investigation:

- The court and the VDSS Adoption Unit should be notified if the investigation and report are delayed and cannot be completed within 60 days.
- A report should be sent to the court requesting additional time to complete the investigation. The report should include the reasons 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, to complete the investigation, the agency is to submit a report to the court and recommend the petition be dismissed.

If the petitioners move from Virginia before completion of the investigation, the agency requests the assistance of an out-of-state agency in completing the investigation. All requests should be forwarded to ICPC.

6.8.3.4 Prepare the required report

The format of the report *used* should be a *Mutual Family Assessment for an Interlocutory Order or a Report of Investigation for an Order of Reference*.

The report *must* contain a recommendation as to the action to be taken by the court.

6.8.3.5 Distribute copies of the report

- Send the original to the court with the Certificate of Service showing that a copy of report was sent to the VDSS Adoption Unit.
- Send one copy to the VDSS Adoption Unit with the completed Commissioner's Confidential Report.
- 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.
- Keep a copy in agency's file until final disposition.

The agency should submit any additional information requested by the VDSS Adoption Unit.

In those instances where the court may enter a final order, the agency *must* 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 LDSS which completed the investigation and court report to provide proof of payment of the fee.

6.8.4 Duties of the attorney

The duties of the attorney do not require action by the agency but agencies should be aware of the responsibilities of attorneys in facilitating intercountry adoptions. Some courts allow petitioners to represent themselves in adoption proceedings. The decision to require an attorney rests with the court.

The attorney:

- Files the petition, which *must* be signed by the petitioner and counsel of record ([§ 63.2-1201](#)).
- Obtains required consents.
- Prepares appropriate orders.
- Informs the petitioners of the legal requirements.
- Assists the agency in obtaining necessary verifications.

- Assists the petitioners in obtaining a new birth certificate for the child.

6.8.5 Duties of the Commissioner

The VDSS Adoption Unit carries out the duties of the Commissioner in adoptions. These duties include:

- 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.
- Monitoring adoption cases and submitting reports to courts when necessary.

6.8.6 Duties of the circuit court

The following are duties of the circuit court regarding acting on petitions for adoption. These duties do not fall under the purview of the agency and require no action on the part of the agency. Pending certain actions taken by the circuit court as described below, documents generated in the course of the court acting on the petition may be required to be sent to the agency for filing and/or submission to the VDSS Adoption Unit, Adoption Records Specialist.

The petition and all exhibits *must* be forwarded to the CPA which completed the home study or provided supervision. If no Virginia agency provided such services, the petition and all exhibits *must* be forwarded to the local director of social services in the locality 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.

The clerk of circuit court where the petition is filed sends a copy of the petition, Order of Reference *or Interlocutory Order*, and all exhibits to the local director of the department of social services and to the VDSS Adoption Unit. The petition *must* be signed by the petitioner and counsel of record, if any ([§ 63.2-1201](#)).

The circuit court *must* expeditiously consider the merits of the petition upon receipt of the report ([§ 63.2-1208](#)).

The court may take any action it finds appropriate ([§ 63.2-1208 B](#)). The court may:

- Enter a final order;
- Deny the petition;
- Dismiss the petition;
- Continue the proceeding; or

- Schedule a hearing.

The court may dispense with entry of the Interlocutory Order when ([§ 63.2-1210](#)):

- The child has been legally adopted according to the laws of a foreign country with which the United States has diplomatic relations ([§ 63.2-1210.5](#)):
 - If the circuit court is of the opinion that the entry of an Interlocutory Order would otherwise be proper.
 - The child has been in the physical custody of the petitioners for:
 - At least one year immediately prior to the filing of the petition.
 - A representative of a child-placing agency has visited the petitioner and child at least once in the 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 LDSS three times within such six-month period with no fewer than 90 days between the first and last visits.
 - The last visit has occurred within six months immediately prior to the filing of the petition.
- The child was placed into Virginia from a foreign country in accordance with [§ 63.2-1104](#), and if ([§ 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 LCPA or the LDSS three times within such six-month period with no fewer than 90 days between the first and last visits.
 - 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.

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.

Child and Family Services Manual**F. Adoption**

The clerk of court sends to the agency and to the VDSS 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 VDSS Adoption Unit for preservation.

When services have been provided by an LDSS, the court *must* assess a fee, in accordance with regulations and fee schedules established by the State Board of Social Services. The court *must* not enter a Final Order of Adoption until proof of payment of fees has been received ([§ 63.2-1248](#)).

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.

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 ([§ 32.1-262](#)).

8

Virginia Birth Father Registry

TABLE OF CONTENTS

8.1	Introduction	2
8.2	Framework	2
8.2.1	Legal citations.....	2
8.3	Who should register with the Virginia Birth Father Registry	2
8.4	Who does not have to register	3
8.5	Registration	3
8.5.1	Timely Registration	4
8.5.2	Confirmation of receipt of registration.....	5
8.5.3	Updating registration	5
8.5.4	Rescinding or withdrawing registration	6
8.6	Access to the Virginia Birth Father Registry	6
8.7	Search of the Virginia Birth Father Registry.....	7
8.8	Compliance with notice provisions	8

8

Virginia Birth Father Registry

8.1 Introduction

The Virginia Birth Father Registry is a confidential database of registered putative fathers. The purpose of the Virginia Birth Father Registry is to protect the rights of a putative father by providing notification of court proceedings for termination of his parental rights and adoption regarding a child that he may have fathered. A putative father is the alleged father of a child.

8.2 Framework

The 2006 General Assembly passed into law the putative father registry for implementation by the Virginia Department of Social Services [§ 63.2-1249](#). In 2017, the name of the putative father registry was changed to the Virginia Birth Father Registry. The Virginia Birth Father Registry provides a mechanism for putative fathers to voluntarily acknowledge paternity prior to adoption court proceedings to ensure they receive notice of the hearings.

8.2.1 Legal citations

The Code of Virginia, Chapter 12, Article 7, [§§ 63.2-1249](#) through [63.2-1253](#) provides guidance on the Virginia Birth Father Registry.

8.3 Who should register with the Virginia Birth Father Registry

A putative father must register with the Virginia Birth Father Registry in an effort to protect his parental rights. Registration may also assist with the opportunity for a father or paternal relatives to play an important role in the child's life.

Any male who desires to be notified of an adoption proceeding or termination of parental rights regarding a child that he may have fathered must register with the Virginia Birth

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.

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 Birth Father Registry to protect his rights.

The Virginia Birth Father Registry is not intended to start a paternity proceeding. However, the registration may be used to help establish paternity.

8.4 Who does not have to register

A male who is recognized as a legal father or is establishing paternity before a petition or consent is filed does not have to register for protection of his rights and to receive notice of an adoption proceeding or termination of parental rights.

The following are considered 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 and 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 who 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 Birth Father Registry.

8.5 Registration

A male wishing to register must complete a [Virginia Birth Father Registry Registration form](#).

A registration form can be obtained at any of the local departments of social services, by email at birthfatherregistry@dss.virginia.gov, or by calling 1-877-433-2339 to request an application.

A registration form can be accessed on the [VDSS website](#). When the registration is completed online, the registrant will be asked to print and mail the original to VDSS. **A registration is only complete when VDSS receives the original, signed registration**

form. Prior communication of registration information or the online submission of the registration through the VDSS website does not complete a timely registration.

The following information must be provided by the putative father on the registration form:

- His name, date of birth, social security number, and signature;
- His driver's license number and state of issuance;
- His home address, telephone number, and employer;
- The name, date of birth, ethnicity, address and telephone number of the putative mother, if known;
- The state of conception (i.e. Maryland, North Carolina, California, etc.);
- The place and date of birth of the child, if known; and,
- The 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 Birth Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

Once registered with the Virginia Birth Father Registry, a male is known as a registrant.

8.5.1 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:

- Before the child is born; or
- Within 10 calendar days after the child is born, or
- Within 10 days of personal service from the child-placing agency or adoptive parent; or
- Within 13 days of receipt of the certified mailing from the child-placing agency or adoptive parent; or

- Within 10 days upon the discovery of fraud *on behalf of* the mother; *however, if the fraud is discovered more than 180 days from the date the circuit court entered the final order of adoption, the registration is considered to be an untimely registration pursuant to [Virginia Code § 63.2-1216](#)*. Fraud is considered to have occurred in the following examples:
 - The male was told that a pregnancy was terminated or the mother miscarried when actually the baby was born, or
 - The male was told the child died when actually the baby is alive.

The child-placing agency or adoptive parent is required to give notice of the adoption plan to the putative father. Typically an agency would provide notice in an agency adoption and an adoptive parent or their attorney would provide notice in a non-agency adoption.

All registrations received by VDSS must be entered into the Virginia Birth Father Registry by the Virginia Birth Father Registry Program Specialist.

8.5.2 registration

Confirmation of receipt of

If a male would like to receive confirmation that he has registered, he may contact the Virginia Birth Father Registry at 1-877-433-2339.

8.5.3

Updating registration

The registrant must **promptly** notify the Virginia Birth Father Registry of any changes including a change of address. The registrant can update his registration by completing another Virginia Birth 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 Birth Father Registry
Virginia Department of Social Services
801 East Main Street
Richmond, VA 23219-2901

8.5.4 registration

Rescinding or withdrawing

The registrant has a right to rescind his registration at any time. To rescind a registration, the registrant must complete another Virginia Birth 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.

8.6 Access to the Virginia Birth Father Registry

The Virginia Birth Father Registry is confidential and exempt from the Virginia Freedom of Information Act.

The information in the database must 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 Birth Father Registry of being listed in the registry.
- 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, custody proceeding, paternity proceeding, or in a proceeding of termination of parental rights, regarding a child who is the subject of the registration.
 - A party to an adoption proceeding may be a petitioner in a termination of parental rights or adoption proceeding 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.

- The child's guardian ad litem (GAL).
 - An attorney or GAL must provide a letter specifically stating the party they represent.
- A putative father registry in another state.

8.7 Search of the Virginia Birth Father Registry

A search of the Virginia Birth Father Registry must 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 court proceeding, must request a search of the Virginia Birth Father Registry for any putative father.

A petitioner who requests a search of the Virginia Birth Father Registry is called a requestor. The requestor is an authorized person, agency, or organization listed in [Section 8.6](#).

VDSS only conducts searches of the Virginia Birth 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. The Virginia Birth Father Registry Program Specialist is available to assist in obtaining contact information for a putative father registry in another state by calling 1-877-433-2339.

The requestor completes the [Virginia Birth Father Registry Request to Search form](#). For a search of a child who is unborn or less than 10 days old and a putative father has been identified, the requestor must attach the letter notifying him of his availability to register.

The search form can be obtained at any local department of social services, by email at birthfatherregistry@dss.virginia.gov, or by calling 1-877-433-2339 to request a form.

Upon satisfaction of documentation requirements, VDSS will conduct a search of the Virginia Birth Father Registry, furnish a certificate that the search was conducted, and include an attachment of any findings of the search.

VDSS will furnish, within **four (4) business days** from receipt of a request from a court, agency, or individual:

- A signed certificate stating that a search was completed; and
- The findings of the search.

VDSS will mail the certificate and findings of the search using the United States mail, or at the requestor's expense, the certificate will be delivered by overnight mail, in person, by messenger, by facsimile, or other electronic communication.

The certificate of search and findings must be filed with the court before an adoption proceeding can conclude.

A copy of the certificate of search must be maintained in the case record of the child-placing agency. The services worker must 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 Family Services Specialist should gather and explore other information to locate and identify the name of the father.

8.8 Compliance with notice provisions

It is the responsibility of the child-placing agency, attorney, or adoptive parent to provide evidence of compliance with the following provisions of the Virginia Birth 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 Birth Father Registry must be sent by personal service, certified mailing *with proof of service*, or *express mailing with proof of delivery* to the putative father's last known address ([§ 63.2-1250 F](#)).

The evidence must be submitted to the courts when filing a petition that notice was sent to the putative father.