

# 3

## FINALIZING THE ADOPTION

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# 3

## FINALIZING THE ADOPTION

### 3.1 Introduction

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The finalization process begins when the adoptive parents are ready to file their petition to adopt the child. The process may involve obtaining legal representation, signing the consent, filing the petition, and submitting a report to the court.

### 3.2 Framework

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Principals in the Virginia's Children's Services System Practice Model provide a philosophical basis and guide for practice in decision making for achieving a permanent family for a child.

We believe that children do best when raised in families.

- Children should be reared by their families whenever possible.
- Keeping children and families together is the best possible use of resources.
- Children are best served when we provide their families with the supports necessary to raise them safely. Services to preserve the family unit and prevent family disruption are family-focused, child-centered, and community-based.
- Children's needs are best served in a family that is committed to the child.

### 3.3 Legal Citations

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Chapter 12 of the Code of Virginia §§ [63.2-100](#) through [63.2-1220](#) provides guidance on the general provisions of adoption in the Commonwealth.

### 3.4 Steps for finalization

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The child placing agency (CPA) is not responsible for filing the petition to adopt, but the agency should know the procedures for filing since the court may order the CPA to perform certain functions related to the petition to adopt.

### 3.4.1 When to file

The decision to file should be made jointly by the CPA and adoptive parents. All preliminary work regarding preparation of the child and family should be completed and all parties should agree that moving forward to finalize is the next step. Discussions and decisions about the child's ongoing contact and communication with the biological parents (a post-adoptive contact and communication agreement) should have been made. Questions about the child's history, the adoptive family's concerns and discussions about post-adoption services, and ongoing support from the CPA should have been addressed. All visitation requirements by the CPA must be met. All parties, including the child when appropriate, should share the opinion that finalizing is clearly in the child's best interests.

### 3.4.2 Legal representation

Adoption is a legal process and the CPA should encourage the adoptive parents to obtain the services of an attorney if they have not already done so. Some circuit courts do not require representation by an attorney, and the adoptive parents can explore this option in their home judicial district. Children's Services Act (CSA) funds may be available to help adoptive parents who are adopting without adoption assistance with attorney fees and court costs, if the adoptive parents cannot afford to pay for these expenses. For children being adopted with adoption assistance, payments for non-recurring expenses are made utilizing title IV-E funds and can include legal expenses directly related to finalization of the adoption.

### 3.4.3 Consent to Adopt

Consent refers to the agreement by a parent, person, or agency acting in place of a parent, to relinquish a child for adoption and release all rights and duties with respect to that child.

#### 3.4.3.1 Who may consent

The birth mother and the birth father (if he has properly established paternity) hold the primary right of consent to adoption of their minor child. When neither parent is available or is no longer legally authorized to give consent, the responsibility may fall to another legal entity, such as:

- The CPA that has custody of the child;
- Any person who has been given custody;
- A guardian or guardian ad litem; or
- The court having jurisdiction over the child.

The court may determine that consent of the parent is not needed under specific circumstances, including when parental rights have been terminated, the child has been abandoned, the parent has been convicted of specific crimes against the other parent or the child, the parent has failed to support or establish a significant relationship with the child, or the parent is mentally incompetent or unfit due to abuse or neglect.

Consent for adoption shall be required from children 14 years and older.

#### **3.4.3.2 Execution of consents**

Adoption is meant to create a permanent and stable home for a child; therefore, a validly executed consent to adopt is intended to be final and irrevocable. However, there are limited circumstances where consent may be revoked: within seven (7) days after execution, by mutual consent, under fraud, or duress.

The agency director or the local board chairman shall sign the consent. The CPA shall provide the attorney representing the adoptive parents with a copy of the consent. If the adoptive parents do not have an attorney, the consent shall be sent directly to the court where the petition is to be filed.

### **3.5 The petition filing date**

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The date the clerk of court clocks in the petition is considered the petition filing date. The Order of Reference signed by the judge is the document that orders the CPA to investigate the petitioner's home and submit the report of investigation.

### **3.6 Report of Investigation**

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

#### **3.6.1 What to include**

The CPA shall prepare and submit a Report of Investigation to the court as directed by the court order. The Report of Investigation shall include all relevant information necessary to provide an orderly and complete account of the facts leading up to and supporting the adoption of the child. 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.

### 3.6.2 Checklist for Report of Investigation

The following checklist provides a framework for the information that should be included in the Report of Investigation.

- Verification of child's name and the date and place of birth with birth registration number.
- Petitioner(s):
  - Full name, maiden name and aliases
  - Place and date of birth
  - Verification of marriage
  - Verification of termination of marriages
  - Physical description
  - Employment history
  - Religion of adoptive family
  - Children
  - Education
  - Employment
  - Personalities
  - Medical history of adoptive family
  - Mental health history of adoptive family
  - Finances of the adoptive family
  - 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
- Home
  - Size

- Location
- Standards
- Occupants
- Other children living in the home
- Other adults residing 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 adoptive child
- Relationship between adoptive parent(s) and birth parent(s)
- Child
  - Proposed new full name ( if applicable)
  - Physical description
  - Description of personality
  - Likes
  - Dislikes
  - Sensitivities
  - Hobbies
  - Talents
  - Any aspirations for the future (depending on age)
  - Place of birth, hospital, city and state
  - Child's heritage
  - Citizenship
  - Race

- Ethnic background
- Reason why the child became free for adoption
- Court order (date signed and entered)
- Entrustment
- Death of birth parent(s)/custodian/legal guardian (give dates)
- 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 relationship with birth family, if contact is continued
- Child's relationship with other children in the household
- Child's relationship with other children in the home
- Education history
- 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 encourage child's education
- Medical history
- Diagnosis, prognosis
- Physical disabilities and supportive service to meet needs
- Attach pertinent medical records and reports
- Mental health history
- DSM-5 diagnosis
- History of mental illness and treatment
- Supportive services to meet mental health needs.
- Attach pertinent mental health records.
- Birth parents
  - Name
  - Date of birth
  - Age
  - Age at time of child's birth
  - Marital status at 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 interest
- Drugs taken during pregnancy
- Hereditary disease
- Physical health, including current
- Mental health
- Personality
- Relationship with parents
- Family relationships
- Siblings
- Extended family
- Separation from and planning for child, opportunity for counseling
- Consent
  - Proper identification of child and petitioner
  - Date of consent
  - Date, place, and method of custody received
  - Date of placement
- 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

### 3.6.3 When to submit the Report of Investigation

The CPA has up to 60 days after receipt of the petition and Order of Reference to complete the Report of Investigation.

### 3.6.4 Distribution of the Report of Investigation

The agency shall 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, Adoption Records Specialist along with:
  - A completed Commissioner's Confidential Report;
  - Copies of the Entrustment Agreement for Permanent Surrender of a Child ([032-02-0024-04-eng](#)) and/or commitment orders; and
  - A copy of Certificate of Service

If the adoptive parents do not have an attorney, the CPA should advise the adoptive parents that the Order 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.

## 3.7 Supervision of placement

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An interlocutory order of adoption declares that, subject to the probationary period prior to the filing of the final order of adoption, the child shall be, for all purposes, the child of the petitioner.

The Code of Virginia sets forth specific minimum visitation requirements by a representative of the agency prior to the finalization of the adoption. The minimum requirements are for three (3) visits within six (6) months.

### 3.7.1 Visits during probationary period

The purpose of the visits during the probationary period is to:

- *Gather information in order to make a recommendation to the court whether the best interest of the child will be met by finalizing the adoption;*
- *Provide regular and ongoing support for the child and family (including monitoring and counseling); and,*
- *Document the progress of the placement.*

Since the goal of these visits is to facilitate the integration of the child into the family, the actual number of visits should be determined by the special needs of the child and the family for a successful adoptive home.

If the adoptive family moves to another locality, state, or country before the final adoption decree is entered, the agency having placement authority for the child is responsible for requesting continuing casework services and supervision of the placement from a social service agency serving the adoptive family's new place of residence utilizing interstate procedures as required by the [Office of the Interstate Compact for the Placement of Children](#).

In such cases, it is essential that an interlocutory order of adoption be filed prior to the family's move to avoid the potential for a considerable delay in the adoptive parent's ability to file an adoption petition in their new state of residence. Without the order, the family may encounter resistance as to their rights to obtain school admission, medical services, etc. on behalf of the child ([§ 63.2-1209](#)).

If the move occurs within Virginia, the supervising agency should correspond directly with the adoptive family's new CPA to request the needed services. Along with the cover letter to explain the basis for the request, the adoptive home assessment, child's adoptive summary, and any other pertinent information should be sent to the new CPA.

### 3.7.2 Report of Visitation

If the placement is being supervised by a CPA, other than the placing agency, the placing agency should receive a written report following each visit. The placing agency should be notified promptly of any concerns noted during the visits. If a child is placed in this state from another state or a child is placed out of state, the [Office of the Interstate Compact for the Placement of Children](#) should be used for reporting of all information.

A written report shall be made to the circuit court in the [Report of Visitation](#) format as recommended by the VDSS *Adoption* Unit. A copy of the Report of Visitation shall

also be served on the counsel of record for the parties and the Commissioner (§ [63.2-1212](#)).

At a minimum, the Report of Visitation shall include a mutual assessment of the placement, the agency contacts, the adjustment of the child and family to the placement, and services the supervising agency provided or need to be provided.

### 3.8 Adoption records

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The Code of Virginia gives the Commissioner of the Department of Social Services the responsibility for preserving adoption records.

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

#### 3.8.1 Obtaining an adoption case number

When a copy of the petition, consent, a signed Order of Reference, and all exhibits submitted to the court on the case are received from the court by the VDSS Adoption Unit, the [Adoption Records Specialist](#) provides the circuit court and CPA (*if applicable*) the adoption case number through an acknowledgment letter.

If the CPA has not received notification of an assigned adoption case number from the Adoption Records Specialist within **fifteen (15) business days** of the CPA receiving a copy of the petition, a signed court order, and all exhibits submitted to the court on the case; the CPA should contact the Adoption Records Specialist.

The clerk of the court where the petition was filed has the responsibility to send a copy of the petition and final adoption order to the Commissioner and the CPA that placed the child.

#### 3.8.2 Materials sent to the VDSS Adoption Unit – Adoption Specialist

*Within 30 days of receipt of a final order of adoption, the CPA should compile the required materials in the case record and forward to the VDSS Adoption Unit.*

Finalized adoption materials should be placed in a standard file folder, labeled with the adoption case number and submitted to the Adoption Records Specialist.

All names by which the child may have been known should be shown on the front of the folder. These names include:

- The child's original name.
- The child's adoptive name.

- Agency code names for the child.
- Any other names by which the child has been known.

Materials shall be originals placed in an identified file folder and should include:

- All medical and psychological reports on the child and birth family.
- All verifications of births, deaths, divorces, and marriages.
- Family Home Study and including all updates.
- Copies of letters to legal/birth parents and the envelopes, if returned by the post office.
- Original letters from legal/birth parents.
- Background summaries and reports to Juvenile and Domestic Relations Courts.
- All legal documents concerning the child's custody.
- Foster care face sheet including placement history.
- Adoptive home placement agreement.
- Summary of CPS initial safety assessment and risk assessment.
- Case narrative material from foster care and adoption records.
- Copy of the statement of information shared with adoptive family, including information on the family's right to appeal.
- Documentation or information from the Virginia *Birth* Father Registry

Records should be purged of all duplicate and non-pertinent material and staples removed before it is sent to the VDSS *Adoption* Unit. Before purging the non-pertinent material, carefully review the material that should be maintained in the child's adoption assistance record and the material that should be kept for title IV-E eligibility review purposes. If purging is not done at the CPA, the record will be returned to the agency for the removal and destruction of all duplicate materials. Materials to be purged include:

- Miscellaneous correspondence, letters, acknowledgments, and requests for status of reports.

- Duplicates and extra copies of material. These could be copies of documents which the agency knows the VDSS *Adoption* Unit already has such as the Report of Investigation, adoption petition; Certificate of Service, and Order of Reference.
- Case narrative that does not contain specific factual information relative to the child's background.
- Baby pictures, baby hospital bracelets, greeting cards, and other personal mementos. These should be given to the adoptive parents after identifying information has been deleted.
- Service application forms.

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

### **3.8.3 Materials maintained at the local department of social services**

For LDSS' adoptions, the LDSS should keep copies of the following material for title IV-E foster care eligibility reviews, since these recent adoption cases may be selected for a review:

- All court orders, service plans, panel reviews, documents pertaining to AFDC-FC eligibility, dispositional plans, and home-studies and background checks on the adoptive parents should be maintained on children who are adopted. This material is to be retained for five (5) years after the child's eighteenth birthday.
- If the child was adopted with adoption assistance of any kind, all forms, reports, and documents concerning the child's special needs, the adoptive family's circumstances, eligibility for IV-E adoption assistance, and the adoptive parents' background checks shall be retained and provided to the case worker assigned to the adoption assistance case for inclusion in the adoption assistance case record. This material should be kept for five years after the child's 18<sup>th</sup> birthday.
- If the child's adoption was finalized in another state, the LDSS shall maintain the materials identified above for title IV-E foster care and adoption eligibility reviews.
- The placing agency may keep copies of any material sent to the VDSS *Adoption* Unit for preservation.

- Complete payment history of all foster care IV-E maintenance payments and administrative costs for each foster care episode. A foster care episode is defined as the period that begins with the child's removal from home and placement in foster care, and continues to the child's discharge from foster care.

### 3.8.4 Maintaining adoption records at the LDSS

Information on the maintenance and destruction of local social service records is found in the Library of Virginia's Archival and Records Management Services Division, [Records Retention and Disposition Schedule](#), General Schedule No. 15 County and Municipal Governments Social Services Records.

The manual, retention schedules, forms and additional information on records management is available at the [Library of Virginia's](#) website.

## 3.9 New birth certificate and Social Security information

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### 3.9.1 Obtaining a new birth certificate

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

The placing agency is responsible for completing the VS-21, Report of Adoption. This form can be obtained from the clerk of court or the Office of Vital Records. There is a twelve dollar administrative fee to establish the new birth certificate. This fee should be paid by the adoptive parent and may be claimed as part of non-recurring adoption expenses.

The VS-21 is not an electronic form. Once completed it must be sent to the court along with the Report of Investigation. The original name, date and place of birth, names of birth parents, and file number of the child's original birth certificate are entered in Part 1 of the VS-21. All information must be completed on the VS-21.

If the child was born outside of the State of Virginia, but within the United States, the Office of Vital Records will forward the VS-21 to the appropriate State Registrar. The petitioners' attorney should contact that State Registrar about the procedures for issuing a new birth certificate.

The Office of Vital Statistics is required, upon request, to establish and register a Virginia birth certificate for a person born in a foreign country upon receipt of a report of adoption for an adoption finalized pursuant to the laws of the foreign country or upon receipt of a report or final order of adoption. (§§ [32.1-261](#) and [63.2-1200.1](#))

- A completed VS-21 and a completed VS-6, Application for a Certified Copy of a Record, this electronic form may be obtained from the [Office of Vital Records](#).
- A check for the required fee.
- A request that such certificate be established in Virginia. The Office of Vital Records will send a copy of the VS-21 to the appropriate federal agency.

### 3.9.2 Updating Social Security Information

When a child is adopted, the Social Security Administration (SSA) will assign a new social security number (SSN) if the adoptive parents request one. The SSA will not assign a new number for adopted children who:

- Know they are adopted;
- Receive Social Security benefits or Supplemental Security Income payments,
- Have worked, or are adopted by a step-parent or other relative.

In these instances, SSA updates the child's record to show the new identifying information and issues a corrected card with the child's new name but original SSN. To apply for a new SSN for an adopted child, the adoptive parent must complete an Application for a Social Security Card.

Further guidance on obtaining new numbers and the Application for a Social Security Card, is available at the [SSA website](#). The application can also be obtained by calling 1-800-722-1213 or visiting a local SSA office.