

# 8

## Virginia Birth Father Registry

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# 8

## Virginia Birth Father Registry

### 8.1 Introduction

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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

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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

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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 shall 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

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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

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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](mailto: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 by the mother.

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 had 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 shall be entered into the Virginia Birth Father Registry by the Virginia Birth Father Registry Program Specialist.

### **8.5.2 Confirmation of receipt of registration**

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 shall **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 Rescinding or withdrawing registration**

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

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

The information in the database shall only be released to the authorized entities:

- The court or a person designated by the court.
  - A designated person must submit documentation from a court signed by a judge indicating that they have been designated by the court.
- The mother of the child who is the subject of registration.
  - The mother must submit proof of being the mother of the child by providing a copy of the birth certificate and notice from the Virginia 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

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A search of the Virginia Birth Father Registry shall be conducted for all adoptions except for children who have been adopted according to the laws of a foreign country or if the child was placed in Virginia from a foreign country in accordance with ([§ 63.2-1104](#)) for the purpose of adoption.

Any petitioner, who files a petition for the termination of parental rights or for an adoption court proceeding, shall 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 shall 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](mailto: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 shall be filed with the court before an adoption proceeding can conclude.

A copy of the certificate of search shall be maintained in the case record of the child-placing agency. The services worker shall file a copy of the certificate of search and the findings with the adoption record.

If a search of the registry does not identify a match to the child who is the subject of the search, the Family Services Specialist should gather and explore other information to locate and identify the name of the father.

## **8.8 Compliance with notice provisions**

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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 or certified mailing to the putative father's last known address ([§ 63.2-1250 E](#)).

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