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## 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.

Until the finalization of the adoption, the child placing agency (CPA) should continue to engage the birth family even after termination of parental rights (TPR). Engaging the child's birth family and natural supports are especially important when an adoptive family has not yet been identified and the youth may age out of care.

### 3.2 Framework

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Principles in the Virginia Children's Services Practice Model provide a philosophical basis and guide for practice in decision making for achieving a permanent family for a child. Guided by this model, our process to continuously improve services for children and families will be rooted in the best practices, the most accurate data available, and with the safety and well-being of children and families as the fixed center of our work. *The Virginia Children's Services Practice Model has six key principles:*

- *We believe that all children and communities deserve to be safe.*
- *We believe that children do best when raised in families.*
- *We believe that all children and youth need and deserve a permanent family.*
- *We believe in partnering with others to support child and family success in a system that is family-focused, child-centered, and community-based.*
- *We believe that how we do our work is as important as the work we do.*

### 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. *In all cases, regardless of*

*whether the case is in the Juvenile Domestic Relations or Circuit court, 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.*

### **3.4 Adoptive home selection and preparation**

A child can be placed for adoption, by an LDSS, once parental rights have been terminated and the LDSS has been granted the authority to place and consent to the child's adoption. In determining the appropriate home in which to place a child for adoption, a married couple or an unmarried individual shall be eligible to receive placement of a child for purposes of adoption [§63.2-1225](#). All child-placing agencies, both private and public, shall be certified by the Division of Licensing Programs to provide Treatment Foster Care Case Management Services ([12 VAC 30-130-920](#)). See Chapter E., Foster Care Manual, [Section 6](#), for more information regarding placement to achieve permanency and foster and adoptive home licensing.

#### **3.4.1 Utilizing a team approach**

Selecting the adoptive home for a child should be done using a team approach. *The LDSS should partner with professionals in the community to serve on the team as consultants.* A multi-disciplinary team can provide information specific to the needs of the child and can help assess the impact of placement of a child with a particular family under consideration.

The purpose of this team is to:

- Confirm the adoptive placement with caregivers with whom the child is presently residing; or
- Establish the adoption of the child with another selected family with whom the child has significant attachments.
- Be the deciding body in selecting an adoptive home for the child from among families who have shown an interest in adopting the child.

The team should be composed of a minimum of three persons, including a person in a management position in children's services, the child's worker and the worker responsible for placement and adoption services for the child. When two or more agencies are working in a collaborative partnership to match children to an adoptive family to finalize the adoption, the other CPAs involved in the collaboration should also be represented on the adoption team.

This team should meet whenever there is a minimum of one home interested in adopting a child to determine next steps in selecting the adoptive family and placing the child.

### 3.4.2 Criteria for selection of a family for the child

- The family's ability to meet the physical, emotional, and mental health needs of the child.
- The compatibility between the child's personal characteristics and the expectations of all members of the adoptive family.
- The specific experiences and/or training the family has had that prepares them to provide for the special needs the child may have.
- The resources in the family's community that are available to meet the child's special needs.
- The degree to which the family is willing to initiate and participate in medical and/or therapeutic treatment, if the child is in need of such services.
- The degree to which the family can accept the child's need for contact with siblings, other birth family members, and/or foster family if the need is indicated.

### 3.4.3 Educating and partnering with adoptive parents

Educating and building collaborative partnerships with adoptive parents should begin with their initial contact with the child welfare system and continue throughout the adoption process.

When the adoptive parents indicate interest in adopting a specific child with special needs, the agency shall provide and discuss the following information:

- The child's background and needs including non-identifying information about the birth family.
- The long term needs of children who have experienced trauma.
- The [Information Sheet on Adoption Assistance Program](#) including:
  - The purpose and types of adoption assistance and/or supports that may be available to help address the child's needs.
  - The application, assessment and negotiation process.
  - The adoption assistance agreement and how to request changes in the agreement when the child's needs and/or family circumstances of the adoptive parents change.
  - Contact information for the LDSS that has jurisdiction for adoption assistance to further discuss the program and submit their application).

While adoptive parents want to make a difference in the child's life, they may have concerns about how this decision will impact their lives and whether they will have the necessary resources to meet the child's needs once the adoption is finalized. The agency should discuss with the adoptive parents how they can integrate the child with special needs into their lives and future. Providing sufficient information about the child to the prospective adoptive parents allow them to decide whether they and the child are right for each other and gives them time to examine their feelings about adoption as a means of having a family or enlarging the one they already have.

### 3.4.3.1 Full disclosure of child information

The CPA shall provide the adoptive parents all known and relevant information about the child. The service worker should discuss this information, responding to all questions the adoptive parents may have.

The agency shall provide the adoptive parents a copy of the [Full Disclosure of Child Information](#) form which provides information on:

- The child's special needs, the services the child currently requires, and to the extent possible, the services the child will need.
- Medical, dental, developmental, behavioral, emotional, and educational information for the child.
- The child's experience in foster care, including the child's age when entering care, the reason(s) for entering care, and the child's placement history.
- The child's biological family, without revealing the family's identity, including but not limited to:
  - Ages and genders of parents and siblings.
  - Education, occupations, and talents of parents.
  - Language, culture and traditions of family.
  - Medical, mental health and substance abuse history of birth parents, grandparents, and other family members.
  - Level of contact the child has had with biological and extended family prior and during foster care placement.
  - Strengths, positive contributions, issues and challenges in the child's relationship with biological and extended family members.

The worker should encourage adoptive parents to talk with the foster parents and any professionals (e.g., physician, teacher, and service providers) involved with the child to gain a comprehensive understanding of the child's needs.

The CPA shall share all relevant documentation, including medical records, prescription histories, psychological evaluations, school records, and any other information that documents the child's needs.

Failure to disclose all relevant information may result in an appeal by the adoptive parent and potential liability for the LDSS.

The adoptive parents may have a legitimate interest in disclosure of information from a child protective services record as the potential caretaker of the child. When the LDSS determines that disclosure of records or information in a child protective services (CPS) case is in the child's best interest, the LDSS may provide this information without a court order and without the consent of the family (§ 63.2-105).

#### **3.4.4 Selecting the adoptive home**

The agency plays a key role in identifying a prospective adoptive parent for a child. The process begins with a study that involves the adoptive applicants to determine with the agency whether they can meet the needs of an adopted child. The study should be carried out so that it brings about increased understanding of the process and begins to prepare the applicants for adoption. The study should be completed by a worker who is experienced in understanding adoption and how adoption affects a family, who is skilled in interviewing and in eliciting information, and can encourage sharing and discussion of sensitive and personal topics.

The study should consist of a series of interviews in which adoptive applicants and the worker exchange factual information, discuss emotional factors involved in adoption, and come to recognize feelings and attitudes that may affect adoption. The study process should begin to establish a relationship with the applicants that will make it possible for the applicants to feel supported both during the selection and placement of the child and during the post placement period. It is important that there be several interviews with the family members individually and together, in addition to group meetings. The children in the family should be seen early in the process since they play a vital role in the success of the placement.

If the child is already living in the home of the potential adoptive parents, strong consideration should be given to placement with these persons, taking into account the length of time the child has been in the home, the depth and degree of bonding that has occurred and the child's ability to move from the home and form satisfactory attachments in another home and with another family.

The adoption team should consider foster parents with whom the child has developed emotional ties as a primary adoptive resource for the child.

If the foster family is to be the adoptive family, the foster family must be prepared for the differences between foster care and adoption. (NOTE: Foster parents have the right to file a petition for adoption, without consent of the LDSS, when:

- The child has resided in their home continuously for at least 18 months, and
- The birth parents' rights to the child have been terminated (§ 63.2-1229).

The worker will use the “Addendum: Mutual Family Assessment – Addition of Child Specific or Matching Information for Adoption” form to document and assess the family. The following checklist provides a framework for the information that should be included in the Adoption Home Study Addendum:

- Dates of contact.
- Who was present.
- Where the contact took place.
- Current household members.
- Changes in the household composition or financial status since the initial home study.
- Current monthly income (verified by paystubs, tax statements etc.).
- Current monthly expenses (verified by monthly billing notices).
- A summary of whether or not the family is living within their means and can financially support a child placed in the home.
- Current health reports (include the date of the exam, TB results, any new physical or mental concerns or conditions).
- Three references (current within 12 months) – these must be mailed directly to the named references from the agency and returned back to the agency.
- Current record clearances (Background Fingerprint Check, Sworn Affidavit, Central Registry Checks).
- Parents’ motivation to adopt.
- Issues of infertility.

- The applicants' expectations of adoption.
- Discussion of each person in the home including their age, gender, grade and school, behavior, mental health, and any developmental issues. Also discuss their attitude towards having another child added to the family.
- Discussion of family structure, clarity of roles and boundaries, communication, how decisions are made and how affection is displayed.
- Family's participation in recreational activities, religious activities, cultural activities, etc.
- Discuss the family's willingness and ability to support the child's culture; religion, language, inherent sexuality, gender identity or expression, etc.
- Thoughts and feelings of child's birth parents and family.
- How will adoptive family assist the child in maintaining relationships with other significant persons (if appropriate)?
- Discuss the family's resources within extended family members, friends, faith based organizations, clubs, etc. Include resources available in the community, resources they have accessed in past, and what the family would do in case of an emergency.
- Discussion of alternate care plans for the permanent care of the child. Include more extensive details if the applicants age and/or health status are assessed to be a concern.
- Discussion of the specific child identified to be placed in the home for adoption to include an up to date health assessment, current medications, counseling, education, services being provided and how often, how the child is doing in the home, and what is their attitude about adoption.
- Training or support needs that have been identified for the family.
- A recommendation of whether or not the adoption placement is supported by the LDSS.

For more information on writing an Adoption Home Study see the additional resource: [The ABC's of Writing and Reading an Adoption Family Assessment \(Home Study\)](#), prepared by the Practice Committee of the Connecticut Council on Adoption.

### 3.4.5 Preplacement visits

When a specific adoptive family is selected for the child, the child's worker shall provide him with detailed information about the family, including sharing pictures of all family members, their home, pets, etc. The worker should also prepare the child for the anticipated number and location of visits with the prospective adoptive parents.

There is no standard number of visits that is required before a child moves into an adoptive home, however, no child should be placed into an adoptive home on one visit unless the child is less than three days old.

All parties, including the foster parents, the adopting parents, the child, and the child's worker are involved in planning the pre-placement visits. Visits should take into consideration the needs of each particular child.

Pre-placement and placement plans should be well thought out and outlined so that the child, the worker, the prospective adoptive parents, the foster parents, know what is being planned and the general timing of the various visits.

If the child wants ongoing contact with the birth parents and the prospective adoptive family supports this contact, the service worker should also consider and discuss with the child and family, whether the birth parents should be included in any of the pre-placement visits. The purpose of including birth parents and how such visits would be arranged must be clear and in the best interest of the child (see [Section 3.5](#) for information regarding use of a Post Adoption Contact and Communication Agreement (PACCA)).

### 3.4.6 Placing the child

When placement has been assessed to be in the child's best interest, all the parties involved in the child's adoption, including the child, believe the child is ready to move and the adoptive parents are ready for placement, the LDSS shall schedule a Family Partnership Meeting to discuss arrangements for the move. If this is an out of state placement, it is important to keep the agency who will supervise the placement informed of developments.

The LDSS and the schools shall jointly determine the child's best interest for school placement up until the final order of adoption. A best interest determination meeting should be held when the child is in foster care, is placed in an adoptive home outside of the child's current school district and there is reason to believe that the child would be best served by remaining in his current school placement prior to the adoption being finalized. The adoptive parents should be actively engaged in the best determinations meeting and should be educated as to the purpose of the meeting, the practice of allowing children to remain in their current school when in the child's best interest and the plan for the child once the adoption is finalized (see Chapter E., Foster Care Manual and [Section 12.12](#)).

When an agency is considering an out of state adoptive placement for a child in its care, the agency shall take the steps necessary to initiate a request for approval for placement under the [Interstate Compact on the Placement of Children](#) before the visiting process can begin. The agency is responsible for selecting the adoptive family that is best able to meet the child's needs.

When the child is moving in to an adoptive home from their foster home, at the time of placement, the Adoption Home Placement Agreement and the Adoption Assistance are signed together, effective the day of placement.

When the child will be adopted by their foster parents, the Adoptive Home Placement Agreement and the Adoption Assistance Agreement are signed together, effective the first day of the following month after all parties of signed.

The LDSS must open an adoption case in the child welfare management system within **five calendar days** of signing the Adoptive Home Placement Agreement and Adoption Assistance Agreement. The foster care case is also updated in the child welfare management system with the child's new placement information and the placement type is changed to 'Adoption Non-Finalized'.

The LDSS must inform other interested families that the child was placed with another adoptive family. It is important to continue to engage and assess these families as possible placement options for other waiting children.

### **3.4.7 Post-placement support and supervision**

The LDSS must offer support and supervision services to the adoptive parents to assist in a successful adoption transition of the child into the home of the family selected. The standard supervision period for an adoptive placement is a minimum of six consecutive months and can include the time the adoptive parents were the child's foster care parents. During the six months following the adoptive placement, the LDSS shall ensure that at least three supervisory visits are conducted. There must be at least 90 days between the first and the last visit. During supervisory visits, both adoptive parents shall be seen together and with the child in at least one of the three visits, unless the petition was filed by a single parent. Face-to-face contact must occur with the child in in the home during all of the visits (§ [63.2-1212](#)). Supervisory visits are specific to the adoption and are in addition to the monthly face-to-face visits. The LDSS must continue to provide foster care services until the final order of adoption is entered. The CPA certifies to the circuit court that the child has lived with the petitioner continuously for six months immediately preceding the filing of the petition and all visits have been completed (§ [63.2-1210.3](#)).

### **3.4.8 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 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](#)). 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.

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.

When it becomes known to the LDSS that there are significant changes to the adoptive family's situation, including changes in the family structure, the LDSS must update the adoption home study prior to making a determination to proceed with finalization of the adoption.

### **3.4.9 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.

#### **3.4.10 Removal from adoptive home after signing the placement agreement**

When a child is placed in an adoptive home with a signed adoptive home placement agreement and the circuit court has not entered an interlocutory order of adoption, the child shall not be removed from the custody of the adoptive parents except in one of the following instances:

- Consent of the adoptive parents ([§ 63.2-1207](#)).
- Court order ([§ 63.2-1207](#)).
- Approval from Virginia Department of Social Services Commissioner ([§ 63.2-904](#)).
- For parental placements, when the entrustment agreement has not yet been finalized by the court and there is proof of fraud or duress after the placement of the child in an adoptive home ([§ 63.2-1204](#)).
- Child abuse and neglect procedures ([§ 16.1-251](#) or [§ 63.2-1517](#)).

### **3.5 Post-Adoption Contact and Communication Agreement (PACCA)**

The PACCA is a voluntary, legally enforceable, written agreement between the birth parents and adoptive parents that has specific requirements included in the agreement. The PACCA governs for contact and communication after the legal adoption of the child that has specific requirements included in the agreement ([§§ 63.2-1220.2](#), [63.2-1220.3](#), [63.2-1220.4](#), [16.1-277.01](#), [16.1-277.02](#), [16.1-278.3](#), and [16.1-283.1](#)).

The PACCA is intended to support open adoptions in Virginia, especially for older children in foster care who have significant emotional attachments to their birth parents. Open adoption is a permanency practice that facilitates communication between the birth parents and the adoptive parents throughout the lifetime of the child.

Service workers should implement PACCA using the Virginia Children's Services System Practice Model to guide practice (See [Section 1.2.1](#)).

The agency shall notify the prospective adoptive parent of the option to enter into a PACCA and notify the child (if age 14 years or older) of their right to consent to the PACCA ([§ 16.1-283.1](#)).

Once the agency files a petition for a Permanency Planning hearing and up until adoption finalization, the agency shall notify pre-adoptive families of the option to enter into a PACCA and notify the child (if age 14 years or older) of their right to consent to the PACCA, ([§ 16.1-283.1](#)). Additionally, the LDSS may notify the birth parents of the option to enter into a PACCA. *This includes birth parents whose parental rights were involuntarily terminated for a reason other than those listed in subsection E of §16.1-283; which include:*

- *Aggravated circumstances – torture, chronic or severe abuse, or chronic or severe sexual abuse, if the victim of such conduct was a child of the parent or a child with whom the parent resided at the time such conduct occurred, including the failure to protect such a child from such conduct, which conduct or failure to protect: (i) evinces a wanton or depraved indifference to human life, or (ii) has resulted in the death of such a child or in serious bodily injury to such a child.*
- *"Chronic abuse" or "chronic sexual abuse" - means recurring acts of physical abuse which place the child's health, safety and well-being at risk.*
- *"Serious bodily injury" - means bodily injury that involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.*
- *"Severe abuse" or "severe sexual abuse" - may include an act or omission that occurred only once, but otherwise meets the definition of "aggravated circumstances."*

*The LDSS or other child welfare agency having custody of the child must not be required by the court to make reasonable efforts to reunite the child with a parent who has been convicted of one of the felonies specified in this section or who has been found by the court to have subjected any child to aggravated circumstances*

### **3.5.1 When to use a PACCA**

A PACCA shall only be used in cases where all of the following conditions are met:

- It is determined to be in the child's best interests.
- The CPA with custody of the child, usually the LDSS, recommends a PACCA.

- The child's guardian ad litem (GAL) recommends a PACCA.
- One or both of the birth parents want to enter into a PACCA.
- The prospective adoptive parents want to enter into a PACCA.
- If the child is at least 14 years old, the child agrees to a PACCA.

If **any one** of these conditions cannot be met, there can be no PACCA.

### **3.5.2 Submitting PACCA at permanency planning hearing**

At the time of the permanency planning hearing, if prospective adoptive parents have been identified and all parties agree to and sign a PACCA, the agency service worker shall submit the PACCA to the juvenile court along with the service plan. The court may consider the appropriateness of the PACCA at the hearing, and if all requirements have been met, the judge will enter the PACCA into the order.

Although the agency is not required to consider a PACCA prior to terminating parental rights, it may do so in appropriate cases. For example, if the child is at least 14 years old and is objecting to the termination because of his or her desire to maintain contact with the birth parents, discussion of the PACCA should occur prior to the TPR. The decision to pursue a PACCA should be made independently of the decision to pursue termination of parental rights.

A court or an agency cannot require a PACCA as a precondition to making a decision in any case involving a child prior to the adoption ([§ 16.1-277.01 D](#)).

### **3.5.3 Approval of PACCA by circuit court**

The circuit court has the final authority to approve the PACCA, if included in the final adoption order; however, if circumstances change between the permanency planning hearing and the circuit court hearing, the PACCA may not be included in the final order of adoption.

### **3.5.4 Factors in deciding whether to enter into a PACCA**

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

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

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

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

- The PACCA can be used in all agency placements.
- The prospective adoptive parents and birth parents shall be informed that a PACCA is optional.
- The PACCA allows the birth parents or the prospective adoptive parents the right to seek enforcement of the agreement.

- A PACCA is not required to complete an adoption nor shall it be a precondition to any decision related to a petition for a court order involving a child (e.g., TPR, changing the permanency goal to adoption).
- The prospective adoptive parents/petitioners shall submit the PACCA with the petition for the adoption.
- The agency sponsoring the adoption, or the agency that completes the adoption report, and the child's guardian ad litem (GAL) shall recommend that the PACCA be approved.
- The adoption is irrevocable even if the adoptive parents or birth parents do not honor the PACCA.

### **3.5.5 Determining best interest of child with PACCA**

Generally after the decision to seek TPR has been made or after TPR has been achieved (whichever is most appropriate in the particular case), the agency sponsoring the adoption should use a team approach to assess and determine the best interest of the child for a PACCA. The team should include the agency service worker, GAL, any agency professionals preparing the child or adoptive parent for adoption, any involved therapists, and the child, if appropriate.

To determine the best interests of the child, the team should consider whether:

- After the adoption, the child would be at risk of physical and/or emotional harm.
- The incident of extreme cruelty, sexual abuse, or other factors that occurred prior to foster care or while in placement would negatively impact a child having contact or communication with the birth parents after an adoption.
- The child has a therapist and the therapist's perception on a PACCA's impact on the child's well-being.
- The child has expressed interest in maintaining contact with the birth parent and in what form.
- The child has an ongoing relationship with the birth parents, and the nature of that relationship is supportive of the child.

The agency service worker documents the discussion of "best interests" and the reasons why a PACCA is or is not recommended in the foster care contacts section of the child welfare management system. If the team determines that a PACCA is in the best interest of the child, the agency service worker consults with the following individuals about whether they are interested in pursuing the PACCA:

- The child.
- The prospective adoptive parents.
- The birth parents.

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

If the child, birth parents, and the prospective adoptive parents are interested in developing an agreement, the agency service worker should discuss the benefits and limitations with them, separately or together, as appropriate.

### **3.5.6 Who enters into the agreement**

The parties who enter into the PACCA shall be:

- The birth parents of a child in the custody of an LDSS or LCPA
- The pre-adoptive parents

The agency and GAL are not considered parties to the agreement. However, they sign the PACCA to indicate they have seen and approved of the agreement as being in the best interest of the child and recommend its approval.

Additionally, the child is also not a party to the agreement. Children age 14 years or older sign the PACCA indicating their consent to the agreement.

### **3.5.7 How to develop the PACCA**

When the birth parents and prospective adoptive parents indicate a willingness to develop a PACCA, the LDSS provides suggestions for terms of the agreement and a packet of information to the birth parents and prospective adoptive parents, which contains the following:

- A fact sheet with the following statements:
  - The adoption is irrevocable even if one or more parties does not honor the PACCA.
  - A PACCA is optional.
  - The agency sponsoring the adoption or completing the adoption report and GAL shall recommend that the PACCA is in the best interest of the child.
  - The prospective adoptive parents shall agree to the PACCA.

- The birth parents shall agree to the PACCA.
- The child age 14 and older shall consent to the PACCA.
- A PACCA grants the birth parents and adoptive parents the right to seek enforcement of the PACCA through contempt proceedings in court.
  - The prospective adoptive parent would have to submit the agreement with the petition for the adoption. The PACCA shall be filed with the petition in a Virginia circuit court to be legally enforceable.
  - Future changes, such as either party moving out of the state, should be considered when developing the terms of a PACCA, and the PACCA should state, if possible, what the parties will do in the case of such future changes.
- Examples of types of contact and communication that can occur and suggestions regarding frequency of contact:
  - Type of contact: Letters, phone calls, visits, emails, online video contact (e.g., Skype).
  - Provisions of visits: Sharing photos and information on health, education, and welfare; discussing the child's goals.
  - Frequency of in-person contact: Whenever the adoptive and birth parents agree to a visit based on a discussion ahead of time; on specified days; at the request of the child, and with the approval of the biological and adoptive parent; on holidays, twice a year, three to four times a year, or annually.
  - Whether visits/contact should be made in person or not.
  - Whether contact and communication is just between parents or includes the child.
- The form for a PACCA Agreement.

### 3.5.8 Roles and responsibility of agency completing the PACCA

The primary role of the agency is to:

- Ensure the team determines whether a PACCA is in the best interest of a child.

- Provide information to the birth parent(s) and/or prospective adoptive parents, if the PACCA is determined to be in the best interest of the child.
- Determine if the parties are interested in a PACCA.
- Assist in determining appropriate types of contact and communication.
- Review the PACCA after it is developed.
- Sign the PACCA, if approval is recommended by the agency.

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

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

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

Circumstances where there would not be an agency sponsoring the adoption include:

- When the agency that has custody is withholding consent.
- A foster parent files a petition to adopt the foster child placed in their home.
- Another agency is ordered to complete the Report of Investigation.

### **3.5.9 Enforcement of PACCA**

Once the adoption is finalized, the terms of the PACCA become enforceable in circuit court by either the biological or adoptive parents as long as the PACCA has been expressly included in the final order of adoption.

The termination of parental rights (TPR) and adoption are irrevocable. Failure to comply with the PACCA by either party has no effect whatsoever on the validity of the TPR decision or adoption. If a party is not complying with the terms of the PACCA after the final order of adoption is entered, the other party can enforce the PACCA through a contempt (show cause) proceeding in court.

### **3.5.10 Modification of PACCA**

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

### **3.6 Filing the petition to adopt**

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The adoptive parents or their legal representative are responsible for filing the petition to adopt. Even though the child placing agency (CPA) is not responsible, the CPA should know the procedures for filing, since the court may order the CPA to perform certain functions related to the petition to adopt.

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.

#### **3.6.1 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.

The CPA should ensure the following are completed prior to filing the petition to adopt:

- Discussions and decisions about the child's ongoing contact and communication with the biological parents.
- Questions about the child's history, the adoptive family's concerns and discussions about post-adoption services, and ongoing support from the CPA.
- All parties, including the child when appropriate, should share the opinion that finalizing is clearly in the child's best interests.

#### **3.6.2 Legal representation**

Adoption is a legal process and the CPA should encourage the adoptive parents to obtain the services of an attorney. 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 for attorney fees to help adoptive parents who are adopting without adoption assistance, 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 ([See Sections 2.6.5 and 2.9.5](#)).

#### **3.6.3 Consent to adopt**

No petition to adopt shall be granted, unless written consent to the proposed adoption is filed with the petition ([§ 63.2-1202](#)). 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. The Consent to Adoption form should be used.

### 3.6.3.1 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, with rights to place for adoption, through court commitment or parental agreement as provided in § [63.2-900](#), [63.2-903](#), or [63.2-1221](#);
  - For foster parent adoption:
    - The CPA who has custody of the child consents after the child has resided in the foster parent's home continuously for at least six months.
    - If the CPA who has custody of the child does not consent and the child has resided in the foster parent's home continuously for at least 18 months and the birth parents' rights have been terminated, the circuit court shall accept the petition filed by the foster parents without the CPA's consent.
- 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 (§ [63.2-1202 C 3](#)).

### 3.6.3.2 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, consent may be revoked: within seven days after execution ([§ 63.2-1234 1](#))

The agency director or the local board chairman, of the agency who has custody and the right to place the child for adoption, shall sign the consent ([§ 63.2-1202 C 2](#)). 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.

#### **3.6.4 The petition filing date**

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.

### **3.7 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 ([§ 63.2-1208](#)). Exhibits are any documents filed with the petition such as the consent and the agency's statement that the birth parents received counseling.

#### **3.7.1 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.

The Report of Investigation shall 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 shall include a list of all records provided to the adoptive parents ([§ 63.2-1208 F](#)).

The LDSS shall ensure all criminal background 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.

### 3.7.2 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.
- Petitioners:
  - 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 adoptive family
  - Religion of 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
- Home
  - Size
  - Location
  - 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 adoptive child
- Relationship between adoptive parents and birth parents
- Child
  - 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
  - Reason why the child became free for adoption
  - Court order (date signed and entered)/entrustment
  - Death of birth parent/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
- 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
- History of mental illness and treatment/supportive services to meet mental health needs.
- Attach pertinent mental and physical 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
- 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
- Placement
  - 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

### 3.7.3 When to submit the Report of Investigation

The CPA shall complete the Report of Investigation within **60 days** after receipt of the petition and Order of Reference ([§ 63.2-1208](#)).

### 3.7.4 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](#)), if applicable, and 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.

## 3.8 Adoption Progress Report

The LDSS shall submit the Adoption Progress Report to the court documenting progress toward adoption **six months** after a permanency planning hearing when the goal of adoption has been approved by the court. The court has the option to schedule a hearing to review this report. The Adoption Progress Report, provided in the child welfare management system, shall be entered into the child welfare management system ([22VAC40-201-110 G](#)).

The court will provide a copy of the Adoption Progress Report to the Guardian ad Litem (GAL) for the child. The LDSS should advise the Permanency Practice Consultant that the Adoption Progress Report is complete by email with the case number and client ID for their review.

The Adoption Progress Report is completed and filed every **six months** from the date the goal of adoption is approved in Juvenile and Domestic Relations court, until the adoption is finalized. The LDSS should use the Adoption Progress Report to notify the court when the adoption is finalized within **ten calendar days** of receiving the final order.

### 3.9 Adoption records

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The Code of Virginia gives the Commissioner of the Department of Social Services the responsibility for storage and preservation of adoption records. The material to be preserved shall include records, orders, and other documents kept or created by the Commissioner, CPA, or local board such as the child's protective services, foster care, and adoption records.

#### 3.9.1 Obtaining an adoption case number

When the following documents are received by the Adoption Records Specialist from the circuit court, an acknowledgement letter with the adoption case number is sent to the circuit court and CPA, if applicable:

- Petition,
- Consent,
- Signed Order of Reference, interlocutory order, or final order, and
- All exhibits.

If the CPA has not received notification of an assigned adoption case number from the Adoption Records Specialist within **15 calendar 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 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.

#### 3.9.2 Materials sent to VDSS Adoption Unit – Adoption Records Specialist

Within 30 days of receipt of a final order of adoption, the CPA shall compile the required materials in the case record and forward to:

Virginia Department of Social Services  
Adoption Unit, 11<sup>th</sup> Floor  
801 East Main Street  
Richmond, Virginia 23219

For the purpose of this section, “adoption file” means records, orders, and other documents kept or created by the Commissioner, CPA, or local board, beginning with the earliest of:

- (i) An order terminating residual parental rights
- (ii) An entrustment agreement
- (iii) A home study or investigation conducted in preparation for adoption
- (iv) The filing of a petition for adoption

The record ends with receiving the final order of adoption

Adoption file also includes all records regarding applications for disclosure and post-adoption searches.

Finalized adoption materials should be placed in a standard file folder, labeled with the adoption case number, and all names by which the child may have been known on the front of the folder. These names include:

- The child's birth name.
- The child's adoptive name.
- Agency code names for the child.
- Any other names by which the child has been known.

Materials sent to VDSS should include:

- An order terminating residual parental rights;
- An entrustment agreement;
- An adoptive family home study;
- Report of Investigation;
- The petition for adoption;
- The final order of adoption;
- All medical and psychological reports on the birth family;
- All verifications of births, deaths, divorces, and marriages;
- Full Disclosure of Child Information Form;
- Letters to legal/birth parents and the envelopes, if returned by the post office;

- All legal documents concerning the child's custody;
- Foster care face sheet including placement history;
- Adoptive home placement agreement;
- The case opening and closing summaries of the case narrative material from foster care and adoption records;
- Verification received from the Virginia Birth Father Registry related to completing a search.

The CPA should remove staples before it is sent to the VDSS Adoption Unit. Records should be purged of all duplicate and non-pertinent material. **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.**

The foster care record is used to gather the above materials for the sealed adoption file, to create an adoption assistance case record, and should be cross referenced with the LDSS CSA/title IV-E financial record to ensure they have a complete record. After the adoption file, adoption assistance case record, and eligibility files are complete, the remaining items should be purged. This includes but is not limited to the following:

- Miscellaneous correspondence, letters, acknowledgments, and requests for status of reports.
- Duplicates and extra copies of material.
- 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.
- Foster care records prior to the TPR order or the entrustment agreement.

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.

### 3.9.3 Materials maintained at the local department of social services

For LDSS' adoptions, the LDSS shall manage an adoption assistance record onsite. Using the Checklist for Child's Virginia Adoption Assistance Case Record form the Adoption Assistance file is created.

- 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 years after the child's 18<sup>th</sup> 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.

### 3.9.4 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.

## 3.10 New birth certificate and Social Security information

### 3.10.1 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 CPA 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.

### 3.10.2 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.