COMMONWEALTH OF VIRGINIA

Fairfax Circuit Court

4110 Chain Bridge Road
Fairfax, Virginia 22030-4048

703-246-2770 TTY 711

CHRISTOPHER J. FALCON
Clerk of Circuit Court

NETTIE M. WHITE
Deputy Director
Chief Deputy

JULIE F. HAMILTON
Chief Deputy

Dear Circuit Court Patron:

My staff and I are dedicated to providing the best possible service to those using the Court. With this goal in mind, we developed the attached handout to help you in adoption proceedings. The handout consolidates into one place all of the information that my office can legally provide to the public. You are responsible for preparing all the necessary documents for your case.

This handout is not intended to replace competent legal advice. In fact, I strongly recommend that you hire an attorney to represent you in this matter. In addition, Virginia law prohibits my staff from providing legal advice. Therefore, please DO NOT ask the Clerk's Office personnel for legal advice.

It is my sincere hope that this information will help make your adoption process easier and less time-consuming for you and your family.

Sincerely,

Christopher J. Falcon
Clerk, Fairfax Circuit Court

GENERAL INFORMATION ON ADOPTIONS

This brochure is intended to provide you with procedural information concerning adoptions. Please be aware that Virginia law forbids the Clerk's Office staff from providing legal advice. Accordingly, the Fairfax Circuit Court Clerk's Office does not supply forms or other documents in connection with filing for an adoption. You are responsible for preparing the necessary documentation. In addition, Virginia only recognizes statutory adoptions, so the requirements of the Code of Virginia must be followed carefully. **Therefore, we strongly suggest that you hire an attorney to help you in your adoption proceeding.** The Clerk's Office cannot recommend specific attorneys, but you may call:

The Virginia Lawyer's Referral Service
1-800-552-7977

or

The Fairfax Bar Association Lawyer Referral Service
703-246-3780

If you decide to represent yourself, you will be expected to follow the same procedures as an attorney.

The Fairfax Law Library, located on the first floor of the Judicial Center, is open to the public for legal research, Mondays and Thursdays, 8:00 a.m. – 7:00 p.m., Tuesdays, Wednesdays, and Fridays, 8:00 a.m. – 4:30 p.m. The Law Library contains materials relating to adoptions in Virginia, including form books. You may want to begin your research with Virginia Code Section 63.2-1200, which is found in Volume 9A. When using the Code, always remember to ensure that you are reviewing the most current sections. Updated sections are located in the pocket supplements at the end of each Code book.

Types of Adoptions:

There are several types of adoptions recognized by the Commonwealth of Virginia. The following is a list of the different types of adoptions, each of which has different filing and procedural requirements. Please consult the Code to insure that your filing is complete and complies with all the requirements for the type of adoption that you are seeking.

The primary sections of The Code of Virginia are found at §63.2-1200 – 63.2-1253, but please note, there are other requirements throughout the Virginia Code that may apply.

The Adoption chapter of the Virginia Code is set forth with an article providing general provisions applicable in all types of adoption and the specific provisions applicable to specific types of placements. You may find these sections in the Virginia Code as follows:

• **GENERAL PROVISIONS**	**§63.2-1200 - 63.2-1220.1**
• **AGENCY ADOPTION**	**§63.2-1221 - 63.2-1229**
• **PARENTAL PLACEMENT ADOPTION**	**§63.2-1230 - 63.2-1240**
• **STEPPARENT ADOPTION**	**§63.2-1241 - 63.2-1242**
• **CLOSE RELATIVE ADOPTION**	**§63.2-1242.1 - 63.2-1242.3**
• **ADULT ADOPTION**	**§63.2-1243 - 63.2-1244**
• **FOREIGN ADOPTIONS/RE-ADOPTIONS**	**§63.2-1210 (5)(6)**
• **CERTIFICATE OF FOREIGN BIRTH WITHOUT READOPTION**	**§63.2.1220**
• **DENIAL OF COMMISSIONER FOR INFORMATION**	**§63.2-1246**

Denial Of Commissioner for Information

When consent of Birth Parents is not obtainable due to their death or mental incapacity and if Commissioner denies the application of the adult adopted person they may apply to Circuit Court for order to disclose that information.

If the adoptee is being placed from another state or if the child is coming from another country and the adoption has not been final, you may be in violation of the law. As a result, your adoption may be affected if you do not follow the Interstate Compact on the Placement of the Children. See Virginia Code §63.2-1000 and § 63.2-1100 – § 63.2-1105. The telephone number for the appropriate office in Virginia Department of Social Services is 804-692-1274.

Required Documents:

Although the filing requirements vary depending upon the type of adoption sought, the following documents are always required.

1. A **signed**, notarized Petition plus two (2) copies. (Additional copies are required if service of Process or Publication is necessary; or if you request a date-stamped copy of the documents you file.)

2. A **signed** proposed Final Order to submit for a Judge's signature. Copies of Orders are not required.

3. A **completed** VS-21 form. This is a statistical "Report of Adoption" form that is required for all adoptions. It is available from the Clerk's Office. (If this is an Agency adoption, the Agency will forward this form to the Court.)

4. A **completed** VS-6 form and a check in the amount of $12.00 made payable to Vital Records. This form is ***required if a new Birth Certificate is requested for persons born in Virginia or a foreign country.*** In addition to the VS-6 form, a copy of your picture I.D. or a copy of two secondary forms of identification in accordance with the Office of Vital Records Primary Documents or Secondary Documents list must be included with your application. The VS-6 form and a list of the primary and secondary documents may be accessed through the internet at:

   https://www.vdh.virginia.gov/vital-records/applications-for-a-vital-record/

   https://www.vdh.virginia.gov/vital-records/id-requirements/

   Upon entry of the final order of adoption, the VS-6 application, copies of the identification and fee will be forwarded to Vital Records.

5. Any evidence, exhibits or documentation in support of the Petition, plus two (2) copies. (NOTE: additional copies must be submitted if Service of process or Publication is required; or if you would like date-stamped copies.)

6. A self-addressed, stamped envelope for **each** set of documents you would like to have returned to you by the Clerk's Office (including date-stamped copies of filings and/or certified copies of Orders).

Preparing Your Petition:

Every petition will vary in content, depending upon the type of adoption sought; however, all petitions must include the following information:

- Either the child's birth name **or** the legal name by which the child will be known after adoption **and** birth certificate number (if the birth name is not used, the petition must include a request to change the child's name). (SEE SAMPLE PAGE.)
- The signatures of both the husband and wife, if you are married.
- A statement of residence.
- The child's date and place of birth.
- The date the child began living with the petitioners.
- Full disclosure of the circumstances under which the child came to live with you. (§63.2-1201)
- A statement that you are financially able to support the child; are in suitable mental and physical health to care for the child; and are morally suitable to raise the child. (§63.2-1209 – 63.2-1210)
- A description of any supporting documents that are attached to the Petition, if applicable with each exhibit lettered or numbered.
- A prayer (request) for the Court's permission to adopt the child (and to change the child's name, if applicable).

Remember, this list only includes the information necessary in all adoptions. Additional information may be required for certain types of adoptions. Please consult the Virginia Code to ensure you include all the necessary information in, and with, your Petition **before you file**.

IF YOU CHOOSE TO REPRESENT YOURSELF, PLEASE REMEMBER:

- The Clerk/Court **cannot** advise or represent you.
- Your documents must be on 8 ½ " x 11" white paper, typed and double-spaced.
- All documents should include your adoption case number.

If you send any documents to the Court, mail them to:

Clerk of the Circuit Court
Fairfax Circuit Court
4110 Chain Bridge Road, Suite 318
Fairfax, VA 22030
Attention: Adoption Clerk

- All hand-carried documents should be delivered to the Clerk's Office on the 3rd floor of the Fairfax Circuit Court at one of the following counters:

Initial Filing of the Adoption Petition:	**Civil Intake counter**
All other filings:	**Court Services counter**

- To check the status of your case, please come to the Civil Case Processing section, provide a form of ID and case number and the clerk will be able to help you.

PARENTAL PLACEMENT:

If a child has been placed by a birth parent directly with you, then your case must start in an appropriate Juvenile and Domestic Relations Court for a determination of birth parent rights and other matters. This applies even to close relative cases except in cases of certain close relatives where the adoptee has lived in the home for a period of two years.

FOREIGN ADOPTIONS AND ESTABLISHING CERTIFICATES OF FOREIGN BIRTH:

There are specific time requirements concerning when you file your petition and have your supervising agency visit you. See Virginia Code §63.2-1210. Some countries issue guardianship (i.e. Korea), while other countries issue final decrees of adoption (i.e. Russia, China, Guatemala). Many people readopt in Virginia despite having a final decree from a foreign country so that the adoption is universally recognized throughout Virginia and the United States pursuant to the

Full Faith and Credit Clause of the U. S. Constitution. Re-adoption allows you to obtain a Virginia Certificate of Foreign Birth.

Alternatively, you may obtain a Certificate of Foreign Birth in some cases without pursuing a re-adoption. While this procedure may not provide the protection of a re-adoption, it may allow your child to more quickly obtain a Virginia Certificate of Foreign Birth and change of name. The requirements for this procedure are in Virginia Code § 63.2-1220. The Court maintains these files with adoption cases to provide confidentiality.

Foreign Adoption Filing fee: **SEE CURRENT FEE SCHEDULE**

Establishing Certificate of Foreign Birth Filing fee: **SEE CURRENT FEE SCHEDULE**

Required Documents:

- A notarized Petition requesting the Court to grant a "Report of Adoption" - plus 2 copies
- Immediate Relative Immigrant Visa (IR-3)
- A completed Report of Adoption (VS-21 form)
- Completed post-adoption reports

The notarized petition or affidavit must state that any outstanding post-adoption requirements shall be met as required by the foreign country. The affidavit shall also include the name by which the child is to be known.

A proposed Order is necessary to submit for a Judge's signature asking the court to amend the birth record and grant the issuance of a certificate of Foreign Birth.

Guidelines and Requirements for filing of Adoption or Re-Adoption:

Code of Virginia Reference: **§63.2-1200 – 63.2-1254**

JURISDICTION: §63.2-1201 **FILING FEE:** **SEE CURRENT FEE SCHEDULE**

1) Adoption proceedings are filed at the Civil Intake Counter of the Clerk's Office, located on the third floor of the Judicial Center, 4110 Chain Bridge Road, Fairfax, Virginia.

2) To file in the Fairfax Circuit Court
   - Petitioner must reside in Fairfax County; or
   - Child placing agency that placed the child is located in Fairfax County; or
   - The birth parent executed consent in Fairfax County pursuant to

3) All filings must be signed

4) All Petitions and Orders must be on 8 ½ " x 11" white paper, typed and double-spaced and should have the heading:

VIRGINIA: FAIRFAX CIRCUIT COURT

5) All filings should include your current address and telephone number

6) All Circuit Court fees must be paid by: cash, certified check, Credit Card (Visa & MasterCard only – a 4% convenience fee is assessed) or money order. Personal checks are **not** accepted.

Fees:

Filing fee:	**SEE CURRENT FEE SCHEDULE**
Copies from the case file:	$ .50 per page
Certifications:	$ 2.00 per document
Triple Seal:	$ 2.50 per Triple Seal
Service of Process:	$12.00 per party for service by the Sheriff.
	$ 5.30 per party for service by Certified Mail.
	$ 19.70 per party for service by Registered Mail

Certified checks or money orders should be payable to:

Clerk of the Circuit Court

TYPES OF ORDERS

ORDER OF REFERENCE §63.2-1208

The Order of Reference refers the case to an adoption agency and notifies the agency to begin an investigative home study. In Step-parent cases this is usually the Fairfax County Department of Family Services. In other cases it is usually the Virginia agency that placed the child or supervised the case. The agency has 60 days to complete its report and return it to the Court. The Order of Reference must name the agency to which the case is being referred, as well as the agencies location and additionally must include the Commissioner of Social Services. Often, this is the first order signed in the proceeding.

INTERLOCUTORY ORDER §63.2-1209 – 63.2-1212

The Interlocutory Order is a temporary adoption order, which sets forth that the adoptive parents are the parents of their child and are subject to a six month probationary period. The Interlocutory Order directs the supervising agency to conduct further visits with you and then report back to the Court.

Not every adoption requires an Interlocutory Order (see §63.2-1210). Generally this is the second order to be signed. In cases of a direct parental placement adoption this is the first order granted in the adoption proceeding at the Circuit Court level.

FINAL ORDER §63.2-1213

The Final Order terminates the rights (and responsibilities/obligations) of the birth or previous adoptive parents and awards the adoption to the petitioning adoptive parents.

The Final Order is submitted **after** the Court has received the Report of Investigation, if applicable.

Please consult the Virginia Code to determine which order(s) are appropriate for your particular case.

PUBLICATION

If Publication is required, an Affidavit for Service by Publication and Order of Publication must be submitted. The Order must be published for four consecutive weeks.

At the time of filing, submit to the Circuit Court, the original affidavit and the original Order of Publication. In addition, you must submit a completed certified or registered mailing form and an envelope addressed to the last known address of the person you are serving through publication.

The Petitioner must pay for the Order to be published in a local newspaper. The Court currently utilizes the Washington Times.

$30.00 - Washington Times

You may have the Order published in any other newspaper with local circulation that have met qualifications in accordance with §8.01-324 of the Code of Virginia.

You must make your own publication arrangements if you select a paid newspaper other than the Washington Times.

If you request the Washington Times, you must submit a check payable to the specific Newspaper.

ADDITIONAL INFORMATION

When filing your case, make sure that you receive and retain your case number. The case number will consist of the case type of AD, a 4-digit year indicator & the number (e.g. AD-2006-0000123) and should be referenced when calling the Court. The phone number you should call if you need information on your case is: 703-691-7320, then press 3, 1, 2, 2.

When requesting the file, you must have the case number since this is the only way for the Court to access the file. We do **NOT** have the ability to access an adoption case by name.

Adoption files are sealed due to the confidentiality of the proceedings. Pursuant to §63.2-1245 "adoption files shall be made available to attorney of record, social service officials, court officials, and to such other persons as the circuit court shall direct in specific cases by order of the circuit court entered in accordance with §63.2-1246".

If you file additional paperwork later in the case, other than orders, remember you will need to include an original and two (2) copies. If Service of Process or Publication is required, you will need to provide additional copies (one for each Service). The case number should always be included on any subsequent filings.

It is your responsibility to advise the Clerk's Office when all paperwork is completed and an order is to be sent to a Judge for review and signature.

You are encouraged to keep a date-stamped copy of all paperwork filed with the Clerk's Office. To receive a date-stamped copy of a filing, please include your request in the cover letter accompanying the original document. You must also provide the Clerk's Office with a copy of the document to be returned to you, as well as a self-addressed stamped envelope.

Under Virginia law, you are entitled to one (1) free certified copy of the FINAL ORDER. You are required to pay for all other copies. If you would like the Final Order mailed, you must provide the Clerk's Office with a self-addressed stamped envelope.

After six (6) months from the entry of the final order, if no appeal is filed with the Court of Appeals challenging the Final Order, the validity of the adoption cannot be attacked later in accordance with §63.2-1216.

TO RECEIVE A COPY OF A BIRTH CERTIFICATE

For persons born in Virginia or persons born in a foreign country and re-adopted in a Virginia Court:

- Complete an application for Certification of a Vital Record (VS-6).
- A copy of your picture I.D. or a copy of two secondary forms of identification in accordance with the Office of Vital Records Primary Documents or Secondary Documents list must be included with your application.
- The VS-6 application and a list of the primary and secondary documents may be accessed through the internet at:

  https://www.vdh.virginia.gov/vital-records/

  https://www.vdh.virginia.gov/vital-records/id-requirements/

- The VS-6 application, copy of your identification and fee payable to Division of Vital Records may be filed with the Petition for Adoption. Upon entry of the final order of adoption, the VS-6 application and fee will be forwarded to Vital Records.

Vital Record Fees:

- $22.00 per certificate - Domestic Adoption (Child born in the United States) Fee includes the $12.00 certificate and $10.00 Administrative/Amendment fee.
- $12.00 per certificate - International Adoption (Child born outside of the United States). Fee for re-adoption or finalization.

For persons born in the United States but outside the Commonwealth of Virginia:

- To receive a certified birth certificate you would need to contact the Vital Records of the specific state the individual was born.
- A listing of all Vital Records in the United States may be accessed through the internet at:

  https://www.cdc.gov/nchs/w2w/index.htm

- Let the other state know this is an adoption since there may be special procedures and fees applicable.

A new birth certificate is created replacing the original. Please be patient since it may take approximately four (4) months in Virginia and may take longer in other states to issue the new birth certificate.

REFERENCE MATERIALS

The following reference materials are available in the Law Library and may be useful to you when researching your case. When doing research, remember that the law may have changed since the resource you are using was published; so always check the Virginia Code and the pocket parts for amendments. Also, please bear in mind that the librarians may not offer you any legal advice.

Code of Virginia 1950, as amended. Sections 63.2-1200 through 63.2-1248, Volume 9A.

Adoption Procedures and Forms: A Guide for Virginia Lawyers, Norfolk, VA: Virginia Law Foundation, 1998.

Brinig, Margaret F. ***Virginia Domestic Relations Handbook***, 3d ed. Charlottesville: Michie, 1996.

Fairfax County Bar Association Circuit Court Manual (2002 ed.) Fairfax: Fairfax County Bar Association, 2004.

Gouldman, W. Clyde and Barbara Wright Goshorn. ***Virginia Forms***, Vol. 1, Charlottesville: Michie, 1995.

Swisher, Peter N., Lawrence D Diehl, and James R. Cottrell. ***Virginia Family Law***, 2d ed. Norcross, GA: The Harrison Company Publishers, 1997.

Virginia Practice Manual, Domestic Relations Section, Virginia Poverty Law Center, 1994.

SAMPLES

SAMPLE HEADINGS

1. <u>If the child will be keeping his or her birth name after adoption</u>:

VIRGINIA:

FAIRFAX CIRCUIT COURT

In the matter of the adoption of a child AD- _____-_____

known as _____
(Childs Birth Name)

by _____
(Petitioners Name(s))

Birth Certificate Registration Number _____

Registered in the State of _____

PETITION

---

2. <u>If the child will be known by a new name after adoption</u>:

VIRGINIA:

FAIRFAX CIRCUIT COURT

In the matter of the adoption of a child to be AD- _____-_____

known as _____
(Childs Adopted Name)

by _____
(Petitioners Name(s))

Birth Certificate Registration Number _____

Registered in the State of _____