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ADOPTION OVERVIEW

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ADOPTION OVERVIEW

1.1 Introduction

*“Adoption is the method provided by law to establish the legal relationship of parent and child between persons who are not so related by birth, with the same mutual rights and obligations that exist between children and their birth parents.”*¹ The primary purpose of adoption is to help children, whose parents are incapable of assuming or continuing parental responsibilities, to legally become part of a permanent family.

Permanence is both a value and a goal of best practice to ensure that no child grows to adulthood without a lifelong connection to a caring adult. In the state of Virginia, adoption is considered one of five permanency goals although it is only one of three that provide a permanent family relationship for a child.

Permanence for a child can best be defined as an enduring family relationship that:

- Is safe and meant to last a lifetime.
- Offers the legal rights and social status of full family membership.
- Provides for physical, emotional, social, cognitive, and spiritual well-being.
- Assures lifelong connections to extended family, siblings, and other significant adults and family history, traditions, race and ethnic heritage, culture, religion, and language.

The goals of adoption services include:

- *timely permanence for children;*
 - *the ability to ensure that every child, no matter the child’s or youth’s age, the opportunity for placement in a permanent family;*
- *preparing children for the transition to an adoptive family;*

¹ Child Welfare League of America, Standards for Adoption Services, Revised Edition, page 11.

- *providing support and services to strengthen the adoptive family;*
- *providing post-adoption services to optimize the adoptive family functioning.*

1.2 Framework

1.2.1 Practice principles

Excerpts from the Virginia Children's Services Practice Model provide guiding principles relevant to the goal of adoption:

- We believe that all children and youth need and deserve a permanent family.
- Lifelong family connections are crucial for children and adults. It is our responsibility to promote and preserve kinship, sibling and community connections for each child. We value past, present, and future relationships that consider the child's hopes and wishes.
- Permanency is best achieved through a legal relationship such as parental custody, adoption, kinship care or guardianship. Placement stability is not permanency.
- Planning for children is focused on the goal of preserving their family, reunifying their family, or achieving permanency with another family.
- Permanency planning for children begins at the first contact with the children's services system. We proceed with a sense of urgency until permanency is achieved. We support families after permanency to ensure that family connections are stable.

1.2.2 Legal citations

The legal framework and specific requirements for engaging children and families through adoption are found through federal and state law. Key laws are identified in this section.

1.2.2.1 Federal laws

- [Indian Child Welfare Act \(ICWA\) of 1978](#) (Pub. L. No.95-608). *This federal law sets standards for placement of Indian children, in foster and adoptive homes, who are members of or eligible for membership in a federally recognized tribe.*
- [Adoption Assistance and Child Welfare Act of 1980](#) (Pub. L. No. 96-272). *This federal law:*

- *Requires states to make adoption assistance payments, which take into account the circumstances of the adopting parents and the child, to parents who adopt a child who is AFDC-eligible and is a child with special needs.*
- *Defines a child with special needs as a child who:*
 - *Cannot be returned to the parent's home.*
 - *Has a special condition such that the child cannot be placed without providing assistance.*
 - *Has not been able to be placed without assistance.*
- *Requires the court or administrative body to determine the child's future status, whether it is a return to parents, adoption, or continued foster care, within 18 months after initial placement into foster care.*
- [Multiethnic Placement Act \(MEPA\) of 1994](#) and [The Interethnic Provisions of 1996](#) (Pub. L. No. 103-382 and Pub. L No. 104-188). *The Multiethnic Placement Act was passed to promote the best interests of children by decreasing the length of time that children wait to be adopted, preventing the discrimination in the placement of children on the basis of race, color, or national origin and facilitated the identification and recruitment of foster and adoptive families who can meet children's needs. Under MEPA, the state shall provide for diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed. The state's plan for foster care and adoption assistance under Title IV-E shall comply with MEPA. This plan shall provide that neither the state nor any other entity in the state that receives funds from the federal government is involved in adoption or foster placements that may discriminate on the basis of race, color, or national origin of the adoptive or foster parent or the child. The 1996 legislation amended the civil rights laws to prohibit persons and governments involved in adoption and foster care placements from denying to any individual the opportunity to become an adoptive or foster parent on the basis of race, color, or national origin of the individual or of the child or delaying or denying the placement of a child for adoption on the basis of the race, color, or nationality origin of the adoptive or foster parent or the child.*
- [Adoption and Safe Families Act of 1997](#) (Pub. L. No. 105-89). *This federal law promotes the adoption of children in foster care. It was passed to improve the safety of children and to promote adoption and other permanent homes for children who need them and to continue to*

support families. This law also requires that agencies, when filing a petition for TPR, shall concurrently begin to recruit, identify, process, and approve a qualified adoptive family on behalf of the child, regardless of age. The law provides that Title IV-E adoption assistance children retain their eligibility for such assistance in a subsequent adoption if the adoptive parents die or the adoption dissolves with a termination of parental rights and the child continues to be a child with special needs. This law also requires states to conduct criminal records checks on prospective adoptive parents of children who would receive Title IV-E adoption assistance.

- [Child Citizenship Act of 2000](#) (Pub .L. No. 106-395). This federal law amends the Immigration and Nationality Act to permit foreign-born citizens (including adopted children) to acquire citizenship automatically if they meet certain requirements.
- [Safe and Timely Interstate Placement of Foster Children Act of 2006](#) (Pub. L. No. 109-239). This federal law:
 - Requires each Title IV-E state plan for foster care and adoption assistance to provide that the state shall have in effect procedures for orderly and timely interstate placement of children, complete home studies requested by another state within a specified period, which is 60 days in most cases but up to 75 days if specified circumstances warrant an extension, and accept such studies received from another state **within 14 days** unless reliance on the report would be contrary to the child's welfare.
 - Requires courts to ensure that foster parents, pre-adoptive parents and relative caregivers of a child in foster care are notified of certain proceedings held with respect to the child.
 - Requires child welfare services to include the assurance that the state will eliminate legal barriers to facilitate timely adoptive or permanent placements for children.
- [Adam Walsh Child Protection and Safety Act of 2006](#) (Pub. L. No. 109-248). This federal law requires fingerprint-based background checks for all prospective adoptive parent(s) and, in all cases, prohibits states from claiming Title IV-E adoption assistance if the prospective adoptive parent(s) has certain felony convictions. This law requires child abuse and neglect registry checks for perspective foster or adoptive parents and any other adult who resided in the home for the last five (5) years.
- [Deficit Reduction Act of 2005](#) (Pub. L. No. 109-171). This federal law clarifies that for Title IV-E adoption assistance, a child shall meet the

July 16, 1996 State AFDC eligibility criteria in the specified relative's home from which he or she is removed. This legislation also eliminates the requirements that a child had to be AFDC eligible at the time of the initiation of adoption.

- [Small Business Job Protection Act of 1996, Section 1807](#) (Pub. L. No. 104-188). This federal law provides a non-refundable tax credit for people who adopt children and a non-refundable credit to those who adopt children with special needs.
- [The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 \(PRWORA\)](#) (Pub. L. No. 104-193). This law limits Federal public benefits to qualified aliens. PRWORA requires a qualified alien entering the United States on or after the date of enactment of PRWORA (August 22, 1996), unless excepted, to live in the United States for five years before becoming eligible for certain Federal public benefits. In accordance with section 403(c)(2)(F) of PRWORA, however, Federal payments for adoption assistance are excluded from this five-year residency requirement if the child and the foster or adoptive parent(s) with whom he or she is placed are qualified aliens.
- [Fostering Connections to Success and Increasing Adoptions Act of 2008](#) (Pub. L. No. 110-351). The goal of this law is to amend parts B and E of Title IV of the Social Security Act to connect and support relative caregivers, improve outcomes for children in foster care, provide for tribal foster care and adoption access, improve incentives for adoption, and for other purposes.

1.2.2.2 Code of Virginia

The Code of Virginia is written to provide a process for adoption services. The laws encourage timely disposition of adoption proceedings and guides practice to enhance permanency for children and youth.

- 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.
- Additional articles of the Code of Virginia provide guidance on adoption practice, proceedings and requirements:
 - Post Adoption Contact and Communication Agreements
 - §§ [63.2-1220.2](#) through [63.2-1220.4](#)

- *Agency Adoptions including entrustments and foster parent adoptions*
 - §§ [63.2-1221](#) through [63.2-1229](#)
- *Parental Placement Adoptions*
 - §§ [63.2-1230](#) through [63.2-1240](#)
- *Stepparent Adoption*
 - §§ [63.2-1241](#) through [63.2-1242](#)
- *Close Relative Adoption*
 - §§ [63.2-1242.1](#) through [63.2-1242.3](#)
- *Adult Adoption*
 - §§ [63.2-1243](#) through [63.2-1244](#)
- *Records including permanent retention, disposition of reports, disclosure of birth family information and fees for court ordered services*
 - §§ [63.2-1245](#) through [63.2-1248](#)
- *Putative Father Registry*
 - §§ [63.2-1249](#) through [63.2-1253](#)

Additional laws included in the Code of Virginia provide guidance on:

- *The Uniform Act on Adoption and Medical Assistance §§ [63.2-1404](#) through [63.2-1405](#) provides definitions, information on medical assistance, and penalties for making false claims.*
- *The Interstate Compact on the Placement of Children (§ [63.2-1000](#)) provides for cooperation between states with regard to placing children in a suitable environment. Sections §§ [63.2-1100](#) through [63.2-1105](#) define the implementation of the Interstate Compact on the Placement of Children.*
- *§ [16.1-283](#) describes the process in the termination of residual parental rights.*

1.2.2.3 Virginia Administrative Code

The Virginia Administrative Code carries the force of law for social services departments in Virginia. Regulations are approved by the State Board of Social Services, the Secretary of Health and Human Resources and the Governor. Regulations may clarify law or add additional requirements.

Additional adoption guidance and requirements shall be found in the Virginia Administrative Code, [Chapter 201](#) entitled Permanency Services-Prevention, Foster Care, Adoption and Independent Living, [22VAC40-201-10](#) through [22VAC40-201-200](#).

1.3 Definitions

The following words and terms, when used in this guidance, shall have the following meaning, unless the context clearly indicates otherwise:

<u>Term</u>	<u>Definition</u>
Acknowledged Father	A man with a relationship with a child established by a voluntary written statement between the man and the mother of the child made under oath agreeing to the paternity and confirming that, prior to signing the acknowledgement, the parties were provided with a written and oral description of the rights and responsibilities of acknowledging paternity and the consequences arising from the signed acknowledgement, including the right to rescind (§ 20-49.1).
Additional Daily Supervision (ADS)	A child's need for increased supervision and support. ADS is the basis for determining if an enhanced maintenance payment to a resource parent (or an adoptive parent entering into an adoption assistance agreement) is needed. The need for ADS is also the basis for increased expectations for the child placing agency and the foster parent in meeting the needs of the child.
Adjudicated Father	A man with a judgment or order from a court establishing paternity of a child using scientifically reliable genetic tests, including blood tests, which affirm at least a 98 percent probability of paternity. Such genetic test results shall have the same legal effect as a judgment entered pursuant to § 20-49.8 .
Adoptee	Any person who has been adopted.
Adoptee Application for Disclosure	The application form to be completed by an adoptee, requesting that a search be made to locate the adoptee's birth mother, birth

<u>Term</u>	<u>Definition</u>
	father, and/or adult birth sibling(s).
Adoption	<i>The legal process that entitles the person being adopted to all of the rights and privileges, and subjects the person to all the obligations of a birth child.</i>
Adoption Assistance	A money payment and/or payment for services provided to adoptive parents <i>and other persons</i> on behalf of a child who has special needs <i>and who meets eligibility criteria</i> .
Adoption Assistance Agreement	<i>A written agreement and any addenda that are entered into and binding on all relevant parties, including the LDSS, the adoptive parents of the child with special needs, and the licensed child placing agency when the child is in its custody. At a minimum, the agreement and any addenda specify the payments, services, and assistance to be provided on behalf of the child and stipulate that the agreement and any addenda shall remain in effect regardless of the State of residence of the adoptive parent at any given time (Social Security Act, Title IV, § 475 (c)(2)[42 USC 675] and Virginia Code § 63.2-1302).</i>
Adoption Assistance – Maintenance	<i>That component of the adoption assistance payment made to an adoptive parent that is based on and consistent with the basic foster care maintenance rate and when applicable, the enhanced maintenance rate. This component of the Adoption Assistance payment shall not be more than, although it may be less than, what the family would have received if the child were still in foster care.</i>
Adoption Assistance Screening Tool	<i>The form used to determine the child’s eligibility for adoption assistance in Virginia.</i>
Adoption Assistance Special Services Payment	<i>That component of the adoption assistance payment made to the adoptive parents and other persons for special services on behalf of the child that the adoptive parents cannot afford and that are not covered by insurance or otherwise (§ 63.2-1301 and 63.2-1302).</i>
Adoption Committee	<i>A group of a minimum of three (3) people (a manager in children’s services, the child’s service worker, and the adoption worker) that meets to select a family whose strengths meet the needs of the child and to determine the child’s compatibility with the adoptive family.</i>

<u>Term</u>	<u>Definition</u>
<i>Adoption Disruption</i>	<i>The unplanned termination of an adoptive placement prior to the finalization of the legal adoptive process.</i>
<i>Adoption Dissolution</i>	<i>The interruption of an adoptive placement after the legal process has been completed and the adoption is finalized.</i>
Adoption Tax Credits	The amounts deducted from state and federal tax liability for qualifying expenses paid to adopt an eligible child (including a child with special needs).
Adoptive Home	Any family home selected and approved by a parent, local department of social services, or a licensed child-placing agency for the placement of a child with the intent of adoption.
Adoptive Parent	A provider selected and approved by a parent or a child placing agency for the placement of a child with the intent of adoption.
<i>Adoptive Placement</i>	<i>Means arranging for the care of a child who is in the custody of a child placing agency in an approved home for the purpose of adoption with a signed adoptive placement agreement.</i>
<i>Adoption Search</i>	<i>Means interviews, and written or telephone inquiries made by a local department to locate and advise the biological parents or siblings of an adult adoptee's request, by Application for Disclosure or petition to the court, for identifying information from a closed adoption record.</i>
Adult	Any person 18 years of age or over.
Adult Adoption	The adoption of any person 18 years of age or older.
Agency Placement Adoption	An adoption in which a child is placed in an adoptive home by a child placing agency which has custody of the child.
Amended Birth Certificate	A term used to refer to the new birth certificate that is issued for an adopted child after an adoption becomes final, which shows the new name of the adopted child and the adoptive parents as the parents of the child, as though they are its biological parents.
Application for Adoption Assistance	The application form used to request adoption assistance payments or services on behalf of an eligible child with special needs.

<u>Term</u>	<u>Definition</u>
AREVA	The Adoption Resource Exchange of Virginia which maintains a registry and photo listing of children and families waiting for adoption.
Birth Certificate (original)	Legal document issued at time of birth with the child's biological history including the identity of one or both biological parents.
Birth Parent	The child's biological parent, and for the purpose of adoptive placement, parent(s) of a previous adoption.
Child	Any natural person less than 18 years of age.
Child-placing Agency	<p>Any person who places children in foster homes, adoptive homes, or independent living arrangements pursuant to § 63.2-1819 of the Code of Virginia or a local board that places children in foster homes or adoptive homes pursuant to § 63.2-900, 63.2-903 or 63.2-1221 of the Code of Virginia. Officers, employees, or agents of the Commonwealth, or any locality acting within the scope of their authority as such, who serve as or maintain a child-placing agency, shall not be required to be licensed.</p> <p><i>A child placing agency may be a local department of social services or a private licensed child placing agency.</i></p>
Child's Pre-Adoptive Summary	A written assessment of the physical, mental, and emotional condition of the child, including the child's strengths, needs, and non-identifying history.
Closed Adoption	An adoption in which the identity of the adoptive parents and birth parents are kept confidential during the process of adoption and records are sealed upon finalization of the adoption, as prescribed by law.
Close Relative	<i>The Code of Virginia § 63.2-1242.1 (A) defines a close relative as an adoption by a child or youth's grandparent, great grandparent, adult nephew or niece, adult brother or sister, adult uncle or aunt or adult great uncle or great aunt.</i>
COBRA	The acronym for The Consolidated Omnibus Budget Reconciliation Act of 1985. It addresses the provision of Medicaid to adoption assistance eligible children.
COBRA Reciprocity	A state's decision to extend Medicaid coverage to adopted children from another state living in the state who meet eligibility requirements and receive non-Title IV-E adoption assistance

<u>Term</u>	<u>Definition</u>
	benefits.
Commissioner	The Commissioner of the Department, his designee, or authorized representative.
CRAFFT	Community Resource, Adoptive and Foster Family Training. CRAFFT Consultants are available to local departments of social services (LDSS) to provide assistance regarding training for foster families.
Cultural Competency	The understanding of culture as a system of values, beliefs, attitudes, traditions, and standards of behavior governing the organization of people into social groups, regulating both group and individual behaviors.
Custody Investigation	<i>Administrative Code 22VAC40-201-10 defines it as a method to gather information related to the parents and a child whose custody, visitation, or support is in controversy or requires determination.</i>
Enhanced Maintenance Payment	The amount paid to a foster or adoptive parent over and above the basic foster care maintenance payment. It is based on the needs of the child for additional supervision and support by the foster or adoptive parent as identified by administration of the VEMAT.
Department	The Virginia Department of Social Services
Foster-Adopt Placement	A child placement in which birth parents' rights have not yet been severed by the court or in which birth parents are appealing the court's decision but foster parents agree to adopt the child if/when parental rights are terminated.
Guardian Ad Litem (GAL)	A trained, independent advocate who represents and promotes the best interests of abused, neglected, and dependent children
Intercountry Placement	The arrangement for the care of a child in an adoptive home or foster care placement into or out of the Commonwealth, by a licensed child placing agency, court, or other entity authorized to make such placements in accordance with the laws of the foreign country under which it operates.

<u>Term</u>	<u>Definition</u>
Interlocutory Order of Adoption	An order declaring that subject to the probationary period prior to the final order of adoption, the child will be, for all intents and purposes, the child of the petitioner.
Interstate Compact on Adoption and Medical Assistance (ICAMA)	An agreement between member states that governs the interstate delivery of and payment for medical services and adoption assistance payments/subsidies for adopted children with special needs.
Interstate Compact on Adoption and Medical Assistance (ICAMA)	An agreement between member states that governs the interstate delivery of and payment for medical services and adoption assistance payments/subsidies for adopted children with special needs.
Local Department	The local department of social services of any county or city in this Commonwealth.
OASIS	<i>The Online Automated Services Information System, used to record all child welfare services data for children in foster care and those adopted children receiving adoption assistance.</i>
Parental Placement	The placement of a child in a family home by the child's parent or legal guardian for the purpose of foster care or adoption.
Petitioner	A person who requests of the court through a petition permission to adopt a certain child.
Permanency	Means establishing family connections and placement options for children in order to provide a lifetime of commitment, continuity of care, a sense of belonging, and a legal and social status that go beyond a child's temporary foster care placements.
Post Adoption Contact and Communication Agreement (PACCA)	The voluntary, legally enforceable, written agreement between the birth parent(s) and the adoptive parent(s) for contact and communication after the legal adoption of a child that has specific requirements included in the agreement.
Post-Adoption Services	Services provided to the family after the legal finalization of the adoption to support, maintain, and sustain the adoptive placement.

<u>Term</u>	<u>Definition</u>
Post-Placement Services	A multitude of appropriate services that are provided after the child's placement with his or her adoptive family but before the finalization of adoption. The goal of these services is to facilitate the integration of the child and family and the resolution of problems that they may encounter.
Presumed Father	A man presumed to be the father if the following circumstances apply: he and the mother of the child are married to each other and the child is born during the marriage; he and the mother of the child were married to each other and the child is born within 300 days of their date of separation, as evidenced by a written agreement or decree of separation, or within 300 days after the marriage is terminated by death, annulment, declaration of invalidity, or divorce (§ 63.2-1202).
Putative Father Registry	A registry established by the Department of Social Services. A man who desires to be notified of proceedings for adoption or termination of parental rights regarding a child he may have fathered should register with the Putative Father Registry before the birth of the child or within ten (10) days after the birth.
Re-Adoption	A process in which international adopters adopt their children a second time, in front of a U.S. judge. The term can also refer to a former adoptive child being re-adopted pursuant to an adoption dissolution.
Resource Parent	Means an approved provider who is committed both to support reunification and also to be prepared to adopt the child if the child and family do not reunify. This provider has completed the dual approval process.

1.4 Common websites

The following websites provide insight and valuable resources for adoption topics:

- [123Adoption](#)
- [Adoptive Families of America Magazine](#)
- [Administration for Children and Families](#)
- [Adopt US Kids](#)

- [Adopting.org](#)
- [Adoption.com](#)
- [AdoptionInformation.com](#)
- [American Adoption Congress](#)
- [Child Welfare Information Gateway](#)
- [Come Unity](#)
- [Evan B. Donaldson Institute](#)
- [National Resource Center for Adoption](#)
- [North American Council on Adoptable Children](#)
- [PACT, An Adoption Alliance](#)
- [Virginia One Church One Child](#)
- [Virginia's Waiting Children](#)