

**JOINT SUBCOMMITTEE ON THE
PLACEMENT OF CHILDREN FOR ADOPTION
REPORT OF THE
SENATE COMMITTEE ON REHABILITATION AND SOCIAL SERVICES
AND THE
HOUSE COMMITTEE ON HEALTH, WELFARE AND INSTITUTIONS
TO
THE GOVERNOR
AND
THE GENERAL ASSEMBLY OF VIRGINIA**



SENATE DOCUMENT NO. 18

**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF PURCHASES AND SUPPLY
RICHMOND
1978**

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Report of the
Joint Subcommittee on the
Placement of Children for Adoption
of the
Senate Committee on Rehabilitation and Social Services
and the
House Committee on Health, Welfare and Institutions
Richmond, Virginia

January 16, 1978

TO: Honorable John N. Dalton, Governor of Virginia

and

The General Assembly of Virginia

INTRODUCTION

The Joint Subcommittee on the Placement of Children for Adoption was authorized to conduct its study by Senate Joint Resolution No. 152 agreed to by the House of Delegates and Senate of Virginia during the 1977 Session. That resolution is as follows:

SENATE JOINT RESOLUTION NO. 152

Requesting the Senate Committee on Rehabilitation and Social Services and the Committee on Health, Welfare and Institutions of the House of Delegates to study placement of children for adoptions.

WHEREAS, the placing of children in prospective adoptive homes will have a profound impact on the future well-being of the children; and

WHEREAS, because of this impact, such placements should be done by persons trained for such roles and motivated by the best interests of the

child; and

WHEREAS, only persons licensed by the Department of Welfare are authorized to engage in placing children for adoption; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the Committee on Rehabilitation and Social Services of the Senate and the Committee on Health, Welfare and Institutions of the House of Delegates are requested to study the placement of children for adoption. The Committees should include in their study an investigation into the extent of unlicensed, independent placements and the effects of such practices; an investigation of the fees charged by private child-placing agencies; the adequacy of local welfare boards in performing the child-placing function; the adequacy and degree of counseling provided to unwed mothers regarding the various alternatives available to them; and any other matters they feel relevant.

The chairmen of the Committees shall appoint a subcommittee composed of four members of the Senate Committee and six members of the House Committee. The subcommittee shall elect its own chairman. Upon completion of its study the subcommittee shall make whatever recommendations it deems necessary to the full Committees.

Pursuant to the direction of the General Assembly to conduct a study of the placement of children for adoption, Senator Lawrence Douglas Wilder, Chairman of the Senate Committee on Rehabilitation and Social Services, and Delegate Donald G. Pendleton, Chairman of the House Committee on Health, Welfare and Institutions appointed the following senators and delegates to serve on a joint subcommittee: Senator Joseph V. Gartlan, Jr. of Alexandria; Senator A. Joe Canada, Jr. of Virginia Beach; Delegate Richard W. Elliott of Rustburg; Delegate Lewis P. Fickett, Jr. of Fredericksburg; Delegate Evelyn M. Hailey of Norfolk; Delegate William P. Robinson, Sr. of Norfolk; Delegate Eleanor P. Sheppard of Richmond; Delegate Frank M. Slayton of South Boston; Senator Russell I. Townsend, Jr. of Chesapeake and Senator Charles L. Waddell of Sterling. Senator Gartlan was selected to serve as chairman and Delegate Robinson as vice chairman.

During the 1977 Session of the General Assembly several bills were considered which would have authorized physicians and lawyers to participate in the placement of children for adoption without being licensed as child-placing agencies; by the Department of Welfare as is currently required by Virginia law. Because of the importance of this issue and the lack of adequate time during the General Assembly Session to explore the ramifications of such a change in the law, this study was commissioned.

HISTORY

The Code of Virginia states in § 63.1-196 that:

(a) Every person not an officer, employee or agent of the State, county, town or city or duly licensed child-placing agency acting within the scope of his authority as such who serves as or maintains a child-placing agency . . . shall obtain an appropriate license from the Commissioner [of Public Welfare].

As of December, 1977 seventeen agencies and one individual psychiatrist had been granted licenses as child-placing agencies by the Department of Welfare. This State agency is charged with the responsibility of prescribing standards and issuing licenses for child-placing agencies and enforcing compliance with those standards. State regulation of the placement of children for adoption applies to local public welfare agencies and licensed private agencies but does not affect the placement of children by their natural parents directly with the adopting parents. It is in these latter cases that the issue of the involvement of physicians, lawyers, clergymen, neighbors and such other individuals in contact with the natural parents in the placement process arises.

In 1976 there were a total of 3,375 children for whom adoptions were finalized in the circuit courts of the Commonwealth. Of this total 1,064 children were adopted by petitioners not related to the child. Of this latter number 143 children were placed in the homes of the adopting parents by other than a public or private agency or the parents or some other relative. In these cases the placement was made by a lawyer, physician, priest, hospital, friend, court, former adoptive parent, relative of the adopting parents, social worker, juvenile court in another nation or an international social service agency. In four cases, there were self-placements. While some of these independent placements may have complied with current Virginia laws and regulations governing the adoption process, the circumstances surrounding the placements were sufficiently unspecified to warrant placing them in a category of placements by "other individuals and organizations" in the statistical compilations of the Department of Welfare.

The Adoption Reports and Resource Section of the Department of Welfare receives from the circuit courts of the Commonwealth copies of all adoption petitions and exhibits thereto and from the agency which placed the child or from the local superintendent of public welfare, in cases where the child was not placed by an agency, a copy of the report to the court on an investigation of the adoptive placement. If in the report to the court or in collateral information submitted to the Adoption Reports Section, the local superintendent indicates that he suspects a violation of law in the adoptive placement, this information is directly forwarded to the appropriate circuit court by the Adoption Reports Section. From a review of the adoption petitions, court reports and exhibits thereto, the Adoption Reports Section determines whether to refer a placement to the Division of Licensing of the Department of Welfare for investigation as to whether the placement was in violation of the laws of the Commonwealth. During 1976 a total of 89 cases were referred to the Division, and 23 cases were investigated. Thirty-nine persons were contacted in relation to the 23 questionable placements. No criminal prosecutions resulted from any of these investigations.

The Department of Welfare does not have an investigative or enforcement unit in the Division of Licensing. Investigations of alleged illegal placements on a statewide basis are handled by one person who carries other duties, so that only a fraction of one persons' time is devoted to this important enforcement activity.

More complete data related to the statistical information referenced above may be found in the appendices of this report. (See Appendix A.)

During the course of the study the Subcommittee met with representatives of the Department of Welfare, public and private child-placing agencies, adoptive parents, physicians, attorneys and others having an interest in the well-being of children and families involved in the adoption process. Issues which were discussed during these meetings touched upon the effects of independent placements of children for adoption, the fees charged by private child-placing agencies, the adequacy of local welfare departments in performing the child-placing function, the adequacy and degree of counseling provided to unwed mothers regarding the various alternatives available to them, the training of public and private adoption workers by the State and local departments of welfare, the use and relevance of adoptive home study and development material by public and private welfare agencies, the advantages and risks which individuals engaged in independent adoptions see in their participation in such placements and how State laws and provisions of the Interstate Compact on Placement of Children are enforced by the Division of Licensing, Department of Welfare and the Office of the Attorney General. Comprehensive documentation of the experiences of adoption workers, natural parents, adoptive parents, physicians and attorneys was presented to the Subcommittee as evidence of the pros and cons of these enumerated issues and provided a good foundation upon which the Subcommittee could base its findings and recommendations.

FINDINGS

The placement of a child for adoption without the assistance of a licensed social service agency may be termed an independent adoption. While a significant number of independent adoptions in Virginia are concerned with the adoption of children by blood relatives or step-parents, a considerable portion involve adoption by unrelated persons.

What are the risks associated with such independent adoptions?

1. Of national concern in the last several years has been the fear that children who are placed with adoptive parents without the oversight of licensed social service agencies will be sold for high fees or become part of "for-profit" adoption operations. While black market operations of this kind have been exposed in other states, no substantial evidence of such activity in the Commonwealth was brought to the attention of this Subcommittee. Testimony before the Subcommittee did reveal instances of

excessive legal and medical fees in connection with independent placements in the State.

2. Another concern is the protection of confidentiality in independent adoptions. When the natural and adoptive parents are known to each other, the stage is set for one party to harass the other and for the adoption to be strained. Efforts by the natural mother to maintain a continuing relationship with her child have been pointed out as being unsettling to the family adopting the child.

3. A third factor to consider concerns the rights of the child to permanency. Adoptive parents are under no obligation to accept or keep a child, prior to the final order of adoption, who is placed by an intermediary if the child is born with or develops physical or emotional problems. If the child is rejected by the prospective parents and no agency is involved, the natural mother who has previously decided to place the child for adoption may become responsible for the care of the child. Return of the child to the natural parent who has physically, emotionally and legally released the child and which requires that another placement for the child be effectuated is a risk.

4. Prior to the final order of adoption, there is a possibility of a custody contest between the adoptive parents and the natural parents. In a significant number of independent adoptions, the rights of the natural mother or father may not be properly terminated leaving the placement open to challenge. 5. Related to this risk is the concern by the adoptive parents that the natural mother may change her mind after the placement but before her rights have been terminated.

6. A sixth risk involves the possibility that a couple, disapproved for legitimate reasons by a licensed child-placing agency, would be able to adopt a child through an intermediary who would not investigate the home situation as thoroughly as an agency might. Once a child is placed in an adoptive home, the courts are reluctant to disturb the placement.

7. The failure of intermediaries to have knowledge of or disclose critical information to the adoptive parents on the child's background which may effect either the child's health and development or the adoptive parents' willingness to care for the child is an additional risk.

8. The legal processes finalizing an adoption may never be completed leaving the child in a legal limbo. Once a child has been placed independently with the adopting family, the adoptive parents may fail to follow through with the necessary court proceedings because of a lack of knowledge of the requirements of the law, the fear that the adoption may be disapproved and the child removed from their home during the court process or merely because of neglect in pursuing a final order of adoption. A child who is adopted independently thus runs the risk of living with a family without the guarantees or privileges of an adopted child.

The final two risks relate to services made available to the natural mother. 9. One of the most frequently mentioned inadequacies in the

process of independent placements is the failure to provide counseling to the natural mother on personal matters and on decisions surrounding the placement. Discussion of the alternatives available to the mother other than placement of her child for adoption, dealing with the pressure that may be placed on the mother to surrender her child and handling her anxiety surrounding this decision and other choices related to release of her offspring are not services which the intermediary is trained or may be inclined to effectively provide. 10. Connected with this risk is the fact that the natural mother is generally not represented by legal counsel or any other unbiased party who is concerned primarily with protecting her rights and well-being, since the intermediary generally represents the adoptive parents.

Despite the risks involved in independent adoptions, persons wishing to adopt children still pursue placement possibilities through independent channels. Seven reasons why parents pursue adoptions through intermediaries were brought to the attention of the Subcommittee.

Why do some adopting parents choose not to use the services of licensed agencies?

1. Most parents seeking to adopt a child want a normal, healthy white infant. There is a shortage of such children available for adoption through licensed agencies which have long or closed waiting lists for prospective parents of these children. When the agency avenue is closed to these adoptive parents, the only alternative is the independent market. 2. Related to this problem is the delay in the adoption application process and the completion of home studies approving the home for an adoptive placement. The most recent statewide statistics regarding potential adoptive homes for July, 1977 indicate that for local public agencies in Virginia:

916 homes were approved and awaiting placement of a child.

571 homes were being studied by local public agencies.

539 prospective applicants were awaiting home studies.

Only 20% of the approved homes will consider children over five years of age, and only 60% will consider healthy children under two years of age. The remaining 20% prefer an infant but might accept a child between two and six. (See Appendix A, Exhibit 3.)

3. While an agency has little or no control over the number of infants available for adoption, it can control its own policies regulating the adoption process. Requirements related to age, length of marriage, number of children already in the home and limited employment by the mother, though flexible in most instances, can eliminate certain desirable prospective adoptive parents. It is recognized that there is a need for some guidelines in choosing adoptive parents, but the appearance of arbitrary and inappropriate requirements turns some people away from agencies to independent placements. Only those requirements which are necessary to protect the child should be retained, and these should be applied uniformly

by agencies to avoid the feeling by applicants that they are being treated capriciously.

4. Several parents who have adopted children through an intermediary testified before the Subcommittee that they chose this route because of the prohibitive fees of private child-placing agencies. They stated that they were able to have children placed with them independently at substantially decreased costs. Most agencies, base their fees on a percentage of the family's income and have a maximum fee which can be charged. Generally, the total amount requested is negotiable and dependent upon the individual situation. Information made available to the Subcommittee concerning the fees charged by licensed child-placing agencies in Virginia indicates that a minimum of \$200 to a maximum of \$2600 may be charged for placing a child in an adoptive home. The Subcommittee was told that an agency never charges more than the actual cost of performing placement services for an individual client in order to make up for monies lost on lower income clients. All of the agencies licensed in the Commonwealth are non-profit except for the individual psychiatrist who is licensed as a child-placing agency. It has also been pointed out that the United Way Fund which helps to support the adoption programs of many of these agencies has encouraged the agencies to increase their fees to recoup a larger amount of the costs of placement services. More complete information concerning the fees of licensed agencies in Virginia can be found in the appendices. (See Appendix B.)

5. Lack of knowledge of adoption and counseling services regarding the placement of children and 6. the stigma attached to such services have also been cited as reasons why parents choose other means to adopt a child. 7. Home studies which are required by all agencies before an applicant is accepted as a prospective adoptive parent and before a child is placed in the home are viewed by some persons as an invasion of privacy. Intermediaries seldom conduct such in-depth investigations of intended adoptive homes and placements through them may thus be viewed as more private, less complicated and more expedient than through an agency.

The problems in the delivery of prompt, effective services to a large number of adoptive parents when there is a shortage of children available should not be applicable to the ability of agencies to respond to the natural parents who wish to release a child for adoption.

Why then do some natural parents choose to place their children independently instead of working through licensed agencies?

1. Most agencies are unable to provide financial assistance for medical or other expenses incurred by the natural mother. The alternative of referral to public assistance and the stigma associated with reliance on welfare turns some natural mothers to independent placements. Intermediaries may provide for financial assistance during pregnancy or after delivery, medical care by a private physician, housing during the pregnancy that allows the mother to remain independent, housing after

delivery or legal counseling.

2. The requirement that other persons be involved in the process of rendering services to the unmarried mother serves as a deterrent to agency services. This could include the agency itself, the court, the woman's parents or the father of the child, some of whom the agency is required by law to involve.

3. Some natural parents choose to place their child through a physician, lawyer or other intermediary in order to have some knowledge of the adoptive parents and the whereabouts of the child. The intermediary may be willing to provide the natural parents with more information about the home where the child is to be raised and allow the parents to participate to some degree in choosing that home than is permitted by agency policies.

4. Pressure from parents who are embarrassed by the situation of their daughter being unmarried and pregnant or their son being the prospective father of an out-of-wedlock child may be brought to bear on the natural parents to quietly place the child with the family physician, lawyer, clergymen or such other person for independent adoption. 5. A pregnant woman who is unmarried and has inadequate resources to care for herself or her unborn child may be urged by an intermediary with whom she is in contact to place the child with that individual upon promises of financial assistance and of the ability of an already available adoptive couple to more adequately care for the child. 6. On the other hand, the natural parents may choose an independent placement for the very reason that they trust the judgment of the intermediary in making the best placement decision for the child.

7. Agency services may also be bypassed by the natural parents because of the stigma attached to public or private social services, 8. because of the perceived red tape and complicated procedures required when utilizing agency resources which can be avoided by the more private route of an independent placement or 9. simply because of a lack of knowledge of the services and resources available through public and private agencies in the placement field.

While it appears that the shortage of healthy white infants is a stronger deterrent to adoptive parents than are agency policies and procedures, such policies and procedures do play a role in diverting parents to independent placements. Factors related to agency services and policies are a more serious deterrent to the use of agency resources by natural mothers than by adoptive parents, and this very fact aggravates the shortage of adoptable infants through agencies.

One of the considerations of substantial significance in many of the issues previously discussed concerns the ease with which a couple desiring to adopt a child can accomplish that end. The Subcommittee has been impressed by the inequity of the present situation where, on the one hand, prospective parents have their names put on the waiting lists of many child-placing agencies in hopes of being approved as an adoptive home and eventually, after a long wait, having a child placed with them and, on the

other hand, other parents who make their desire for a child known to their physician, lawyer, minister or some other person having the appropriate contacts who can secure a child for the couple with little or no delay. Some child-placing agencies require that applicants, once approved as a prospective adoptive home, work solely with that agency to have a child placed with them to avoid duplication of services. Nevertheless, when a couple is on an approved waiting list to receive a child from an agency, even if at the top of the list, it may not receive the next child that becomes available. The agency seeks to match the child with the proper couple and not provide the couple with the first child at hand. As long as the great disparity between the number of persons wishing to adopt and the number of children available to be adopted exists, the decision as to who is going to get the children who are adoptable will be at the heart of the issue of independent adoptions.

RECOMMENDATIONS

The lives of children, their natural and adoptive parents are irrevocably affected by the adoption process. If the best interests of all the parties are to be protected, certain conditions should be met as part of the process of the placement of children for adoption. Those conditions include the following:

1. The natural mother who surrenders her baby should have an opportunity to consider in an informed and uncoerced manner the alternatives available to her and be provided with counseling in selecting among them.

2. The natural mother's decision to surrender her child should not be linked to the provision of services.

3. The natural father's interests should be considered in the relinquishment of his child.

4. The child has a right to protection from unnecessary separation from his or her natural parents.

5. The child has a right to a secure, permanent home.

6. The child has the right to the best suitable home available.

7. In order for the child to develop a sense of identity and emotional well-being, his or her adoptive parents have a right to accurate and appropriate information about the natural parents, including full knowledge of any factors which affect the child's growth.

8. The adoptive parents have the right to the assurance that the natural parents will not intervene in the child's life after placement.

9. The adoptive parents should have available help in understanding the special needs of an adopted child and the difficulties inherent in adoptive

parenthood.

The Subcommittee concludes that these conditions are best met and the interests of the parties involved in adoptions are best served by limiting the placement of children to their natural parents or legal guardian and public and licensed child-placing agencies. Physicians, lawyers, clergymen and others who may be serving as intermediaries in the placement of children for adoption do not have the expertise, facilities or resources to provide the protection and services needed by all the parties affected by the adoption. The assumption surrounding independent adoptions that the natural and adoptive parents are mature, competent adults capable of making a critical decision on the basis of legal or medical information or both and a description of the physical and social characteristics of the parties involved is not borne out by extensive social work experience. The natural parents are often young and anxious about the situation they find themselves in and may not be in a position to make sound decisions without disinterested support. The adoptive parents may have unresolved conflicts or strains in the home or marriage which the adoption will not necessarily eliminate.

To carry out this recommendation the Subcommittee proposes several amendments to strengthen the existing laws of the Commonwealth governing the placement of children for adoption. The complete text of the legislation to be submitted for consideration by the 1978 Session of the General Assembly can be found in the appendices of this report. (See Appendix C.)

The following are the changes which these amendments seek to effect and the policies which Subcommittee recommends to the legislature.

To clarify the meaning of "child-placing agency" for the purposes of the statutes governing licensure and adoption proceedings, the Subcommittee proposes a new definition which is identical for both laws. Definitions of "adoptive home" and "placement" are also added to the chapters governing child welfare agencies and adoptions to make clear the activities which those statutes seek to regulate. (§§ 63.1-195 and 63.1-220)

A new section added to Chapter 10 of Title 63.1, Adoptions, states specifically who is permitted to place children for adoption:

1. a licensed child-placing agency;
2. a local board of public welfare or social services;
3. the child's parent or legal guardian; and
4. any agency outside the Commonwealth which is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates. (§ 63.1-220.1)

To more adequately monitor compliance with the limitations of this new provision, procedural safeguards have been incorporated into the statutes governing the placement process and the filing and investigation of petitions for adoption.

Prior to the placement of a child for adoption by a licensed child-placing agency or a local board of public welfare or social services, the agency or board is required to provide the natural mother or, if reasonably available, both natural parents with an opportunity for counseling concerning the disposition of their child.

In determining the appropriate home in which to place a child for adoption the agency or board is permitted to consider the recommendations of a physician or attorney, licensed in the Commonwealth, or a clergyman who is familiar with the situation of the proposed adoptive parents or the child. The physician, attorney or clergyman is prohibited from charging any fee for recommending such a placement to a board or agency, however, and from advertising that he is available to make such recommendations.

In order for the natural parent or legal guardian to place his or her child for adoption, valid consent to the adoption by persons of the natural parent's or legal guardian's choice must be executed before a juvenile and domestic relations district court of competent jurisdiction. At the time of the execution of the consent, the court must appoint the proposed adoptive parents as guardians of the child who remain responsible for the care of the child until such time as the court order is modified. The juvenile court is required to annually review such orders of appointment until such time as a final order of adoption is entered in the circuit court. (§ 63.1-204)

All petitions for adoption of a child must state that the natural mother, or, if reasonably available, both natural parents have been provided with an opportunity for counseling as previously discussed. Upon the filing of a petition for adoption where the child has been placed with the proposed adoptive parents directly by the natural parent, the petition must state that the consent of the natural parent was obtained in an informed and uncoerced manner before the juvenile court, and the petitioners were appointed guardians of the child at this time. The circuit court is given the discretion to waive these requirements with regard to counseling, consent and guardianship if any of them are found to be contrary to the best interests of the child. (§ 63.1-221)

An amendment to the section governing parental consent to adoptions, § 63.1-225, provides that such consent is revocable prior to the final order of adoption (i) upon proof of fraud or duress or (ii), after placement of the child in an adoptive home, upon written mutual consent of the natural parents and proposed adoptive parents.

In cases where a child has been placed in an adoptive home directly by the natural parents or legal guardian of the child, the adoptive parents have been appointed guardians of the child and it becomes necessary to remove the child from the home of the adoptive parents, an amendment to

§ 63.1-221.1, which provides standards and procedures for such removals, provides that the court entering the removal order shall then commit the child to the care and custody of the local board of public welfare or social services with the authority to place that child for adoption.

To deal with the problem of the placement of children in Virginia by persons outside the Commonwealth who are not licensed or otherwise duly authorized to place children for adoption by virtue of the laws of the state in which they reside, an amendment to § 63.1-223 provides for the Commissioner of Public Welfare, upon learning of such violation, to inform the circuit court wherein the petition for adoption has been filed and to so state his disapproval thereof.

A further amendment to § 63.1-223 adds an additional requirement to the content of the report to the court on investigations of petitions for adoption by the Commissioner, child-placing agency and local superintendent of welfare: fees which have been paid by the petitioner or in their behalf to persons or agencies which have assisted them in obtaining a child must be enumerated in the report.

Upon the entry of a final order of adoption involving a child placed by a licensed child-placing agency or involving a child placed by a local board of public welfare or social services or an investigation by the local superintendent of a placement, the agency or local board shall transmit to the Commissioner of Public Welfare all reports and collateral information in connection with all such cases which shall be preserved by the Commissioner in accordance with present statutory standards governing confidentiality. Licensed child-placing agencies are authorized to keep duplicate copies of such reports and collateral information and to obtain copies of such documents from the Commissioner at a reasonable fee as provided by the Board of Welfare. These provisions are recommended to insure that children who are adopted have the ability to obtain, upon becoming adults, accurate and appropriate information about their biological parents, their medical background and any other factors which affect their sense of identity and emotional well-being.

The Subcommittee rejected proposals that the penalty for operating a child-placing agency without a license be increased from a misdemeanor to a felony. It is recommended, however, that the statute of limitations for prosecutions of violations of § 63.1-215 be extended, so that the statute does not begin to run on the one year period for the prosecution of misdemeanors until the date of the filing of the petition for adoption. Placements of children for adoption in violation of the law are usually not discovered until an investigation is done by a social service agency as requested by the circuit court incident to an adoption petition. At the time the petition is filed, the child may have been in the prospective adoptive home for longer than a year precluding any prosecution for the placement violation.

Also recommended in this report is a resolution expressing the sense of the General Assembly concerning compliance with and enforcement of the laws governing adoptive placements of children. During this study it was

brought to the Subcommittee's attention that Commonwealth's Attorneys and others involved in the process of enforcing the statutes passed by the General Assembly to protect the welfare of parties involved in the adoption process do not believe violations of these provisions are of sufficient importance to warrant any significant attention to their enforcement. The resolution affirms the legislature's support of the policies and statutes enacted to protect children, their natural and adoptive parents and admonishes the Commonwealth's Attorneys, the State Department of Welfare and the Office of the Attorney General to diligently seek compliance with and enforcement of these policies and statutes.

The Joint Subcommittee on the Placement of Children for Adoption respectfully submits this report and these legislative recommendations to the 1978 Session of the General Assembly.

Respectfully submitted,

Joseph V. Gartlan, Jr., Chairman

A. Joe Canada, Jr.

Richard W. Elliott

Lewis P. Fickett, Jr.,

Evelyn M. Hailey

William P. Robinson, Sr.

Eleanor P. Sheppard

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A P P E N D I C E S

APPENDIX A, EXHIBIT 1

ADOPTION PETITIONS GRANTED TO NOT RELATED PETITIONERS ONLY IN 1976*

Note: A total of 3,375 adoptions were finalized in 1976.

Characteristics	Total number of children	Type of Placement				No placement	Type of placement not reported
		Agency	Public	Private	Independent Parents or other relative		
A. Status of child, TOTAL.....	1,064	521	196	197	143	7	-
1. Born out of wedlock.....	713	333	151	110	115	4	-
2. Born in wedlock, Total...	264	171	31	47	15	-	-
a. Both parents dead.....	4	-	1	2	1	-	-
b. One parent dead.....	26	17	-	7	2	-	-
c. Parents living and together.....	77	61	3	10	3	-	-
d. Parents living, marriage broken.....	118	86	5	23	4	-	-
e. Other and not reported.....	39	7	22	5	5	-	-
3. Birth status not reported.....	87	17	14	40	13	3	-
B. Age of child at time of placement, TOTAL.....	1,064	521	196	197	143	7	-
1. Under 1 month.....	227	24	14	77	112	-	-
2. 1 month, under 3 months..	199	93	86	15	5	-	-
3. 3 months, under 6 months.	133	74	44	10	5	-	-
4. 6 months, under 1 year...	101	51	28	19	3	-	-
5. 1 year, under 2 years....	87	50	10	21	6	-	-
6. 2 years, under 6 years...	183	141	8	31	3	-	-
7. 6 years, under 12 years..	91	73	2	16	-	-	-
8. 12 years and over.....	12	6	-	2	4	-	-
9. Age not reported.....	24	10	4	6	4	-	-
10. Inapplicable-no placement made.....	7						

*Data supplied by the Department of Welfare - June, 1977.

EXHIBIT 2

ADOPTION PETITIONS GRANTED IN 1975

Children Placed By "Other Individuals or Organizations"

	<u>NUMBER OF CHILDREN</u>
Lawyer.....	53
Lawyer and Doctor.....	14
Doctor.....	37
Doctor and Nurse.....	1
Hospital.....	4
Friend.....	11
Minister or Priest.....	9
Former Adoptive Parents.....	1
Relative of Petitioner.....	7
Army Officer.....	2
Chaplain.....	1
Church Worker.....	1
International Social Service.....	3
Orphanage in other nation.....	5
Self-Placement.....	4
Juvenile Court in other nation...	17
TOTAL.....	170

ADOPTION PETITIONS GRANTED IN 1976

Children Placed By "Other Individuals or Organizations"

	<u>NUMBER OF CHILDREN</u>
Lawyer.....	42
Lawyer and Doctor.....	12
Lawyer and Priest.....	1
Doctor.....	49
Hospital.....	1
Friend.....	10
Minister or Priest.....	7
Court.....	5
Former Adoptive Parents.....	1
Relative of Petitioner.....	4
Social Worker.....	1
Juvenile Court in other nation...	5
Self-Placement.....	4
International Social Service.....	1
TOTAL.....	143

EXHIBIT 3

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WELFARE
INTER-OFFICE COMMUNICATION

Date May 1, 1977

TO: WHOM IT MAY CONCERN:

1. Children Awaiting Adoptive Homes in Virginia in 1976:
According to the most recent State-wide Survey of the 11,303 foster children under the care and custody of local public agencies in June 1976, 1172 such children were awaiting adoptive homes.
 - Approximately a o t e s e c i r e n a r e w i t h e o t h e r h a l f black or bi-racial children. Many of them are siblings.
 - Nearly 40% of these children are between 6 and 12 years of age, 10% are from one to five years of age, and barely 5% of them are babies under 12 months old. The remaining 45% are over 12.
 - Approximately 500 of the total number of children needing adoptive parents have some t o f h a n d i c a p a p e d s r a n d r a n g i n g a r a n g a l l t h e w a y f r o m minor disabilities such as cross eyes or chronic asthma up to a few with more severely crippling conditions like cerebral palsy or cystic fibrosis. Some of these children will require Special Need Subsidies in order to achieve adoption.
2. A total of 1,057 children were illegally adopted by "non-related persons" in 1976. 717 of these children had been placed by authorized adoption agencies, while 340 has been placed independently by their own parents and relatives, or by other individuals and organizations (including doctors, lawyers, hospitals, etc.). (In 1975, 783 of the children legally adopted had been placed by agencies, 369 by parents and others.)
3. With regard to the ages of the 1,057 children legally adopted in 1976:
 - 660 were babies under one year old, 414 placed by agencies, 246 by parents/other.
 - 270 were between 1 and 6 years old, 209 placed by agencies, 61 by parents/other.
 - 91 were between 6 and 12 years old, 75 placed by agencies, 16 by parents/other.
 - 12 were over twelve years of age, only 6 placed by agencies, 6 by parents/other.
 - 24 not recorded.
4. As of April 1977, a total of 35 children in Virginia had been placed for adoption with the benefit of subsidy payments to supplement the financial contributions their adoptive parents could make towards the cost of their maintenance and care. 25 of these children were to be adopted by the foster parents with whom they had resided for the past year or more, while only 10 of them needed new adoptive homes.
5. The most recent statewide statistics regarding potential adoptive homes for January 1977, show the following figures for local public agencies in Virginia:

- 931 homes were approved and awaiting placement of a child
- 586 homes were being studied by local public agencies
- 904 prospective applicants were awaiting home studies!

Note: Only 20% of the approved homes will consider children over 5 years old. 60% will consider only healthy children under two!
The remaining 20% prefer an infant, but might accept a child between 2 and 5 years of age.

EXHIBIT '4

BLAIR BUILDING
5007 DISCOVERY DRIVE
RICHMOND VIRGINIA 23288



WILLIAM L. LUKHARD
COMMISSIONER

COMMONWEALTH of VIRGINIA

DEPARTMENT OF WELFARE

Telephone (804) 786-8771

June 15, 1977

**TO: MRS. LELIA B. HOPPER, STAFF ATTORNEY
DIVISION OF LEGISLATIVE SERVICES**

**FROM: MISS ANN L. VOGT, CHILD PLACING AGENCY SUPERVISOR
DIVISION OF LICENSING ALV**

SUBJECT: ALLEGED ILLEGAL CHILD PLACING ACTIVITIES

As you requested, I am outlining below the procedures set up in this Division for enforcing the Licensing Statute as it relates to child placing agencies as well as statistics on my activities in this area in 1975, 1976, and 1977, to date:

Procedures for Investigating Alleged Illegal Adoption Placements

1. Referral received from Adoption Reports Section of the Division of Social Services.
2. Referral reviewed.
 - a. High priority cases selected for investigation. These include cases in which the alleged placer has been named in prior referrals.
 - b. Cases determined to be low risk are sorted out. These include cases in which members of the natural mother's family are alleged to have made the placement or other persons involved specifically with the natural or adoptive parents who would appear to have little potential for repeating the activity.
 - c. The balance of the referrals are determined to be low priority.
3. After telephoning for an appointment, the adoptive couple is interviewed for specific information on how they learned about the child and who made the arrangements for placement of the child with them.

4. After telephoning for an appointment, the person or persons named as intermediaries by the adoptive couple are interviewed. They are asked to provide detailed information about their involvement in the placement, are advised of the Licensing Statute, and are provided with information about the definition of child placing.
5. A follow up letter is sent to all alleged intermediaries who have been interviewed, as well as to those who refuse an interview, summarizing the definition of child placing, the requirement of licensure, the penalties for acting outside of the law, and inviting questions. Opinions of the Attorney General, related to §63.1-195, are enclosed.
6. Instances of alleged intermediaries who have been put on notice through the procedures outlined in step 4 and/or step 5 above who then again place a child are referred to the Attorney General's office for advice on legal action.

/ps

Attachment

cc: Mrs. Margaret D. Miller
Miss Betty L. Lewis

6/15/77

YEAR	TOTAL REFERRED	HIGH PRIORITY CASES INVESTIGATED	CONTACTS ON HIGH PRIORITY CASES		LOW PRIORITY CASES	LOW RISK CASES
			Alleged Placers	Adoptive Couples & Other Individuals		
1975	82	23	18	22	34	25
1976	89	23	17	22	44	22
1977**	44	17	7	13	16	11
Total	<u>215*</u>	63	<u>42</u>	<u>57</u>	94	<u>58</u>

*Within the total cases referred, 20 individuals have been named as an intermediary in two or more placements.

**As of June 15, 1977.

APPENDIX B

COMMONWEALTH OF VIRGINIA
DEPARTMENT OF WELFARE
INTER-OFFICE COMMUNICATION

TO: Mrs. Lelia Bopper, Staff Attorney
Division of Legislative Services

FROM: Ms. Ann L. Vogt, Licensing Supervisor *ALV*
Division of Licensing

SUBJECT: ADOPTION FEE INFORMATION: LICENSED CHILD PLACING AGENCIES

Date: JULY 14, 1977

Attached please find a composite summary of the above subject matter received by me from the 14 agencies providing an adoption service. This material reflects their current fee practice. Please note that four of the 18 licensed agencies do not presently provide adoption services.

For your information, I am attaching copies of all materials sent to me by most of the 14 agencies in this matter, should you desire more specific information than is noted in my summary.

ALV/neg

cc: Mrs. Margaret D. Miller

ADOPTION FEE INFORMATION:

Jewish Family Services, Inc.
4206 Fitzhugh Avenue
Richmond, Virginia 23230

Families are charged for adoptive home studies based on a counseling fee scale per interview ranging from \$1.00 to \$30.00. If a child is subsequently placed with them by this agency, then one of two fee schedules is applied for the total amount requested, minus the payment already made for their home study. Total amount of payment requested is negotiable, dependent upon individual circumstances. Adoption fee scale ranges from a figure established by special arrangement to a maximum of \$2000.00, dependent on family income.

Catholic Home Bureau, Inc.
1520 Aberdeen Road
Hampton, Virginia 23666

12% of total family income at the time of application. All fees are subject to negotiation on an individual basis. There is no established ceiling. For adoption of children with special needs, the fee is waived.

Holston Methodist Children's Home, Inc.
P.O. Box 55
c/o Emory and Henry College
Emory, Virginia 24327

10% of family's gross income to a maximum ceiling of \$1500.00. This is considered a tax deductible contribution. Total payment is requested prior to final decree of adoption. The timetable for payment is flexible. The total amount requested is negotiable, dependent upon the individual situation. There is no attempt to cover total costs incurred by the agency in an adoption placement.

Catholic Charities of the Diocese
of Arlington, Inc.
Family and Children's Services
3838 North College Lane
Arlington, Virginia 22203

Fees are 6% of gross family income plus a non refundable application fee of \$25.00. Maximum fee is \$1800.00. Fees may be reduced according to individual circumstances. Fees for hard to place children are usually reduced below the 6% level.

Their actual costs to process an adoption is \$2000.00, not including foster care or unmarried parents costs. The United Way does not provide support for the adoption program. The diocese subsidizes it.

Virginia Baptist Children's Home
P.O. Box 849
Salem, Virginia 24153

Fee schedule ranging from \$200.00 to \$500.00. \$25.00 is requested with the application, \$50.00 following approval of the home and balance due within 6 months after placement. The portion of the cost of service not covered by fee is absorbed by contributions of Virginia Baptists.

Catholic Family and Children's Services
1301 Colonial Avenue
Norfolk, Virginia 23517

Fee schedule on a graduated scale according to income of husband. Range from \$600.00 to \$2478.00 with payments due at various points in the process. Services are financed only in part by the fees. Deficit is subsidized by the United Communities Fund.

William F. Gibbs, M.D., F.A.P.S.A.
DePaul Medical Building
Norfolk, Virginia 23505

No specific fee schedule. Couples are requested to pay for prenatal costs of natural mother, hospital costs for mother and child, boarding costs at St. Mary's Infant Home, costs for secretarial service and transportation and costs of interviews with Dr. Gibbs and social worker. Approximate overall cost to adoptive families is usually from \$1500.00 - \$2000.00.

Jewish Family Service of Tidewater, Inc.
7300 Newport Avenue
Norfolk, Virginia 23505

Fee is 6% of applicant's annual income, not to exceed \$1500.00. Fee is negotiable, dependent upon individual circumstances.

Family Service/Travelers Aid, Inc.
222 19th Street
Norfolk, Virginia 23517

Sliding fee schedule: if gross annual income is under \$4,999, fee determination is made by special arrangement; maximum fee is \$1980.00 for an income of \$22,100 and over. The difference between fee schedule and actual costs of service is made possible by the United Communities Fund.

ADOPTION FEE INFORMATION

- 3 -

Catholic Family and Children's Services
of Richmond, Inc.
3212 Cutshaw Avenue
Richmond, Virginia 23230

10% of gross income to a maximum of \$2600.00. A charge of \$25.00 is requested per interview. If the study goes on to approval, this amount is subtracted from overall fee. Balance is to be paid on a monthly, bi-monthly, or quarterly basis.

Children's Home Society of Virginia
4200 Fitzhugh Avenue
Richmond, Virginia 23230

Fee is subject to reduction based on unusual circumstances. Range is from \$240.00 to maximum of \$2600.00. Payments are made in 6 steps, which allows for payment of services as they are received. The fee is based on actual agency costs and is based on annual family income.

Catholic Family and Children's Services of
Roanoke Valley and Western Virginia, Inc.
2823 Williamson Road, N.W.
Roanoke, Virginia 24012

Fee is 10% of family's combined annual gross income at the time the home study is completed. The maximum is \$2600.00 \$20.00 is payable at the initial interview; \$50.00 when the home study is initiated; \$50.00 midway through the study and \$50.00 at the time of completion. Balance is requested prior to legal adoptive proceedings.

If a family is interested in a hard to place or special needs child, the above fee schedule is disregarded and a fee is determined on an individual basis.

Catholic Family and Children's Service
4500 Portsmouth Boulevard
Portsmouth, Virginia 23701

Fee ranges from \$400.00 to a maximum of \$950 with a gross family income of \$12,500. If income is between \$12,500.00 and \$25,000.00, the fee is computed at 10%.

ADOPTION FEE INFORMATION

- 4 -

United Methodist Children's Home, Inc.
3900 W. Broad Street
Richmond, Virginia 23230

Adoptive parents are asked to pay for whatever expenses the Home incurs in relation to hospital expenses of the mother and baby; if the child is in foster care prior to adoptive placement, this cost is applied; as is foster care of a natural mother, if applicable. The Home has no upper limit on the amount requested. They ask for total payment by the time the adoption is finalized. The timetable for paying is flexible. There are adjustments to the total amount in certain situations.

APPENDIX C

A BILL to amend and reenact §§ 63.1-195, 63.1-203, 63.1-204, 63.1-211.1, 63.1-215, 63.1-220, 63.1-221, 63.1-223, 63.1-225 and 63.1-236 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 63.1-220.1, the amended and added sections relating to the placement of children for adoption.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-195, 63.1-203, 63.1-204, 63.1-211.1, 63.1-215, 63.1-220, 63.1-221, 63.1-223, 63.1-225 and 63.1-236 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 63.1-220.1 as follows:

§ 63.1-195. Definitions.—As used in this chapter:

“Person” means any natural person, or any association, partnership or corporation;

“Child” means any natural person under eighteen years of age;

“Foster care” means the provision of substitute care and supervision, for a child committed or entrusted to a local board of public welfare or child welfare agency or for whom the board or child welfare agency has accepted supervision, in a temporary living situation until the child can return to his or her family or be placed in a permanent foster care placement or in an adoptive home;

“Foster home” means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household;

“Child-placing agency” means any person, ~~other than the parent or guardian of the child, who places, or obtains the placement of, or who negotiates or acts as intermediary for the placement of, any child in a foster home, or adoptive home~~ *licensed to place children in foster homes or adoptive homes or a local board of public welfare or social services authorized to place children in foster homes or adoptive homes pursuant to §§ 63.1-56 and 63.1-204 ;*

“Child-caring institution” means any institution, other than an institution operated by the State, a county or city, and maintained for the purpose of receiving children for full-time care, maintenance, protection and guidance separated from their parents or guardians, except:

(1) [Repealed.]

(2) A bona fide educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

(3) An establishment required to be licensed as a summer camp by §§ 35-43 to 35-53; and

(4) A bona fide hospital legally maintained, as such;

“Group home” means a child-caring institution operated by any person at any place other than in an individual’s family home or residence, which does not care for more than twelve children;

“Independent foster home” means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child-placing agency except (1) a home in which are received only children related by birth or adoption of the person who maintains such home and legitimate children of personal friends of such person and (2) a home in which are received a child or children committed under the provisions of § 16.1-279, subsections A.3., C.5. or E.9.;

“Permanent foster care placement” means the place of residence in which a child resides and in which he or she has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he or she reaches the age of majority unless modified by court order or unless removed pursuant to § 16.1-251 or § 63.1-248.9. A permanent foster care placement may be a place of residence of any natural person or persons deemed appropriate to meet a child’s needs on a long-term basis;

“Child-care center” means any facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardian during a part of the day only except (1) a facility required to be licensed as a summer camp under §§ 35-43 through 35-53; (2) a public school or a private school unless the Commissioner determines that such private school is operating a child-care center outside the scope of regular classes; (3) a school operated primarily for the educational instruction of children from two to five years of age at which children two through four years of age do not attend in excess of four hours per day and children five years of age do not attend in excess of six and one-half hours per day; (4) a facility which provides child care on an hourly basis which is contracted for by a parent occasionally only; (5) a facility operated by a hospital on the hospital’s premises, which provides care to the children of the hospital’s employees, while such employees are engaged in performing work for the hospital; and (6) a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services;

“Child-welfare agency” means a child-placing agency, child-caring institution, independent foster home, child-care center or family day-care home;

“Family day-care home” means any private family home in which

more than five children are received for care, protection and guidance during only a part of the twenty-four hour day, except (1) children who are related by blood or marriage to the person who maintains the home or (2) homes which accept children exclusively from local departments of welfare or social services; provided, however, that in case of a complaint in such a home where less than six children reside, the Commissioner may cause an investigation to be made as provided in §63.1-198 and may require such home to comply with the provisions of this chapter applicable to family day-care homes if he finds that such home is not conducive to the welfare of the children received therein;

“Foster care placement” means placement of a child in the custody of a child-placing agency in suitable foster family homes, child-caring institutions, residential facilities or group homes.

“Adoptive home” means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption;

“Placement” means any activity by any person which provides assistance to a parent or guardian in locating and effecting the move of a child to a foster home or adoptive home;

§ 63.1-203. Records and reports.—Every licensed child welfare agency shall keep such records and make such reports to the Commissioner as he may require. The forms to be used in the making of such reports shall be prescribed and furnished by the Commissioner.

Upon the entry of a final order of adoption involving a child placed by a licensed child-placing agency, that agency shall transmit to the Commissioner all reports and collateral information in connection with the case which shall be preserved by the Commissioner in accordance with § 63.1-236. Such agency may keep duplicate copies of such reports and collateral information or may obtain copies of such documents from the Commissioner at a reasonable fee as prescribed by the Board.

§ 63.1-204. Acceptance and control over children; placing children for adoption.— A. A licensed child welfare agency shall have the right to accept, for any purpose not contrary to the limitations contained in its license, such children as may be entrusted or committed to it by the parents, guardians, relatives or other persons having legal custody thereof, or committed by any court of competent jurisdiction. The agency shall, within the terms of its license and the agreement or order by which such child is entrusted or committed to its care, have custody and control of every such child so entrusted or committed and accepted, until he is lawfully discharged, has been adopted, or has attained his majority.

B. Whenever a licensed child-welfare agency accepts custody of a child pursuant to a temporary entrustment agreement entered into under the authority of this section, except when the entrustment agreement between the parent or parents and the licensed child-welfare agency provides for

the permanent separation of such child from his parent or parents, such child-welfare agency shall petition the juvenile and domestic relations district court of the city or county for approval of such agreement within a reasonable time, not to exceed thirty days, after its execution; provided, however, that such petition shall not be required when the agreement stipulates in writing that the temporary entrustment shall be for less than ninety days and the child is returned to his or her home within that period.

C. A child may be placed for adoption by a licensed child-placing agency, a local board of public welfare or social services or by the child's natural parent or legal guardian.

1. A licensed child-placing agency, or local board of public welfare may place for adoption, and is empowered to consent to the adoption of, any child who is properly committed or entrusted to its care when the order of commitment or the entrustment agreement between the parent or parents and the agency or board provides for the permanent separation of such child from his parent or parents.

Prior to the placement of a child for adoption, the licensed child-placing agency or local board having custody of the child shall provide the natural mother or, if reasonably available, both natural parents with an opportunity for counseling concerning the disposition of their child. In determining the appropriate home in which to place a child for adoption, the agency or board may consider the recommendations of a physician or attorney, licensed in the Commonwealth, or a clergyman who is familiar with the situation of the proposed adoptive parents or the child. The physician, attorney or clergyman shall not charge any fee for recommending such a placement to a board or agency and shall not advertise that he is available to make such recommendations.

Notwithstanding the terms of §§ 63.1-233 and 63.1-237, a valid entrustment agreement for the permanent separation of such child shall not be revocable by either of the natural parents after fifteen days from the date of execution of the agreement, or if the child is not at least twenty-five days old at the end of the fifteen-day period, then after the child reaches the age of twenty-five days, and such agreement shall divest the natural parents of all legal rights and obligations with respect to the child, and the child shall be free from all legal obligations of obedience and maintenance with respect to them, provided that such rights and obligations may be restored to the natural parent or parents and the child by court order prior to entry of final order of adoption upon proof of fraud or duress; and further provided that either parent or both parents, if married, may revoke such agreement and the child may be returned if the child has not been placed in the home of adoptive parents at the time of such revocation.

2. The natural parent or legal guardian of a child may place the child for adoption directly with the adoptive parents of his or her choice only after executing a valid consent to the proposed adoption before a juvenile and domestic relations district court of competent jurisdiction. At the time

of the execution of such consent, the court shall appoint the proposed adoptive parents guardians of the child who shall be responsible for the care of the child until such time as the court order is modified. The juvenile court shall review such orders of appointment at least annually until such time as a final order of adoption is entered in the circuit court.

D. For the purposes of this section, a parent who is less than eighteen years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement which provides for permanent separation of the child from such parent, and shall be as fully bound thereby as if such parent had attained the age of eighteen years. An entrustment agreement for permanent separation of the child shall be valid notwithstanding that it is not signed by the father of a child born out of wedlock if the identity of the father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered or certified mail to his last known address and such father fails to object to the entrustment within twenty-one days of the mailing of such notice. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit.

§ 63.1-211.1. Removal of child from adoptive home placement.—When a child is placed in an adoptive home pursuant to the authority of § 63.1-204 by a local board of public welfare or social services in consideration of an adoptive home placement agreement ~~or~~ , by a licensed child-placing agency *or by the natural parent or legal guardian of the child* , and a court of competent jurisdiction has not entered an interlocutory order of adoption pursuant to § 63.1-226, such child shall not be removed from the physical custody of the adoptive parents, except (i) with the consent of the adoptive parents, (ii) upon order of the juvenile and domestic relations district court or the circuit court of competent jurisdiction or (iii) pursuant to § 63.1-211, which removal shall be subject to review by the juvenile and domestic relations district court upon petition of the adoptive parents.

In cases where a child has been placed in an adoptive home directly by the natural parents or legal guardian of the child, the adoptive parents have been appointed guardians of the child pursuant to § 63.1-204, and it becomes necessary to remove that child from the home of the adoptive parents, the court entering such an order shall commit the child to the care and custody of the local board of public welfare or social services with the authority to place that child for adoption.

§ 63.1-215. Penalty for operation without license.—Any person who operates or engages in the activities of a child welfare agency without first obtaining a license as required by this chapter, or after such license has been revoked or has expired and not been renewed, and each officer and each member of the governing board of any association or corporation which operates a child welfare agency without obtaining such license or after such revocation or expiration shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment for not more than twelve months, or by both such fine and imprisonment. Every day's violation of this section

shall constitute a separate offense. *The commencement of prosecutions for violations of this section shall be filed in accordance with the provisions of § 19.2-8; provided, however, in the case of violations of laws governing the placement of children for adoption without a license, no action shall be commenced after the expiration of one year from the date of the filing of the petition for adoption.*

§ 63.1-220. "Definitions.—As used in this chapter :

"Adoptive home" means any family home selected and approved by a parent, local board of public welfare or social services or a licensed child-placing agency for the placement of a child with the intent of adoption;

"Child placing agency" means any person ; ~~firm, or corporation~~ licensed as such ~~agency under~~ pursuant to the provisions of Chapter 10 (§ 63.1-195 et seq.) to place children in foster homes or adoptive homes or ~~the~~ a local board of public welfare or social services ~~having custody of a child with right to place him for adoption by virtue of court commitment or parental agreement as provided in~~ authorized to place children in foster homes or adoptive homes pursuant to §§ 63.1-56 and 63.1-204 ~~or an agency outside the State which is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates~~

"Person" means any natural person or association, partnership or corporation; and

"Placement" means any activity by any person which provides assistance to a parent or guardian in locating and effecting the move of a child to a foster home or adoptive home.

§ 63.1-220.1. *Who may place children for adoption.—A child may be placed for adoption by:*

- 1. a licensed child-placing agency;*
- 2. a local board of public welfare or social services;*
- 3. the child's parent or legal guardian; and*
- 4. any agency outside the Commonwealth which is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates.*

§ 63.1-221. *Jurisdiction and proceedings.—Proceedings for the adoption of a minor child and for a change of name of such child shall be instituted only by petition to a court of record having chancery jurisdiction in the county or city in which the petitioner resides or in the city or county in which is located the child-placing agency which placed the child, provided that the Circuit Court of the city of Richmond, Division I, shall have exclusive jurisdiction in every such case arising in the said city if the petitioner resides on the north side of the James river, and that the Circuit*

Court of the city of Richmond, Division II, shall have exclusive jurisdiction if the petitioner resides in the said city on the south side of the James river. Such petition may be filed by any natural person who resides in the Commonwealth or who has custody of a child placed by a child-placing agency of the Commonwealth, for leave to adopt a minor child not legally his by birth and, if it be so desired by the petitioner, also to change the name of such child. In the case of married persons the petition shall be the joint petition of the husband and wife but in the event the child to be adopted is legally the child by birth or adoption of one of the petitioners, such petitioner shall unite in the petition for the purpose of indicating his or her consent to the prayer thereof only. The petition shall contain a full disclosure of the circumstances under which the child came to live, and is living, in the home of the petitioner.

Where the natural parent has placed the child directly with the petitioners pursuant to the provisions of paragraph C.2. of § 63.1-204, the petition shall state that the consent of the natural parent was obtained in an informed and uncoerced manner before a juvenile and domestic relations district court of competent jurisdiction and that the same court appointed the petitioners guardians of the child at such time. All petitions for adoption of a child shall state that the natural mother, or, if reasonably available, both natural parents, have been provided with an opportunity for counseling as required in § 63.1-204 C. The court shall have the authority to waive any of the requirements of this paragraph related to the obtaining of consent, appointment of guardians and opportunity for counseling, if they are found to be contrary to the best interests of the child.

A petition for the adoption of a child placed in the home of the petitioners by a child-placing agency shall be filed in the name by which the child will be known after adoption, provided the name is followed by the registration number of the child's original birth certificate and the state or country in which the registration occurred unless it is verified by the registrar of vital statistics of the state or country of original birth that such information is not available; provided further, that the report of investigation required by § 63.1-223 and, when applicable, the report required by § 63.1-228 is identified with the child's name as it appears on the birth certificate, the birth registration number and the name by which the child is to be known after the final order of adoption is entered.

A single petition for adoption under the provisions of this section shall be sufficient for the concurrent adoption by the same petitioners of two or more children who have the same natural parent or parents; and nothing in this section shall be construed as having heretofore required a separate petition for each of such children.

§ 63.1-223. Preliminary investigations; report to court.—(a) Upon the filing of the petition, the court wherein the petition is filed, or the clerk thereof upon order of the court, shall forward a copy of the petition and all exhibits thereto to the Commissioner and to the agency which placed the child or, in cases where the child was not placed by an agency, to the local superintendent of public welfare. The agency which placed the child

or the local superintendent of public welfare, except as hereinafter provided in paragraph (b), shall cause to be made a thorough investigation of the matter and report thereon in writing, in such form as the Commissioner may prescribe, to the court within sixty days after the copy of the petition and all exhibits thereto are forwarded. A copy of the report to the court shall be served on the Commissioner by delivering or mailing a copy to him on or before the day of filing the report with the court. On the report to the court there shall be appended either acceptance of service or certificate of the local superintendent of public welfare, or other welfare agency of the county or city or the representative of the child-placing agency, that copies were served as this section requires, showing the date of delivery or mailing. The Commissioner shall notify the court within thirty days of the receipt of the report, during which time the court shall withhold consideration of the merits of the petition pending review of the agency report by the Commissioner, of his approval or disapproval thereof stating reasons for any further action on the report which he deems necessary.

(b) The Commissioner shall cause to be made the thorough investigation required in subsection (a) hereof and report thereon in writing to the court within ninety days after the copy of the petition and all exhibits thereto are forwarded, when:

(1) A petition is filed in a State court by residents of this State and the child to be adopted is in the custody of an agency outside the State;

(2) A petition is filed in a State court and the petitioners move outside the State prior to completion of the investigation by the local child-placing agency; or

(3) Petitioners are legal residents of this State but do not reside within the State at the time of filing the petition in a State court.

In cases where the preliminary investigation reveals that the child was placed in an adoptive home in the Commonwealth by a person who is not authorized to make such placements pursuant to § 63.1-220.1, the Commission shall so inform the court wherein the petition for adoption is filed and so state his disapproval thereof.

(c) In the event the report required in subsection (a) or subsection (b) is not made to the court within the periods specified, the court may proceed to hear and determine the merits of the petition and enter such order or orders as the court may deem appropriate.

(d) The investigation requested by the court shall include, in addition to other inquiries which the court may require the Commissioner, child-placing agency or local superintendent of public welfare to make, inquiries as to (1) whether the petitioner is financially able, except as provided in chapter 11.1 (§ 63.1-238.1 et seq.) of this title, morally suitable, and a proper person to care for and to train the child, (2) what the physical and mental condition of the child is, (3) why the parents, if living, desire to be relieved of the responsibility for the custody, care and

maintenance of the child, and what their attitude is toward the proposed adoption, (4) whether the parents have abandoned the child or are morally unfit to have custody over him, (5) the circumstances under which the child came to live, and is living, in the same home of the petitioner, ~~and~~ (6) whether the child is a suitable child for adoption by the petitioner *and* (7) *what fees have been paid by the petitioners or in their behalf to persons or agencies which have assisted them in obtaining the child* . Any report made to the court shall include a recommendation as to the action to be taken by the court on the petition. A copy of any report made to the court shall be furnished counsel of record representing the adopting parent or parents.

§ 63.1-225. Parental, etc., consent.—No petition for adoption shall be granted, except as hereinafter provided in this section, unless there be written consent to the proposed adoption filed with the petition. Such consent shall be signed and acknowledged before an officer authorized by law to take acknowledgments.

The consent of a parent for the adoption of his or her child shall not be valid unless the child be at least ten days old at the time the consent is signed.

A parent who has not reached the age of eighteen shall have legal capacity to give consent to adoption and shall be as fully bound thereby as if said parent had attained the age of eighteen years.

Consent by the child shall be necessary if the child is fourteen years of age or older, unless the court finds that the best interests of the child will be served by not requiring such consent.

Consent shall be executed:

(1) By the parents or surviving parent of a child born in wedlock; provided, however, if the parents are divorced and one has been divested of custody by terms of the divorce and does not consent to the adoption the petition may be granted without the consent of such parent; or

(2) By the parents or surviving parent of a child born out of wedlock. The consent of the father of a child born to an unmarried woman shall not be required if the identity of the father is not reasonably ascertainable, or if such father is given notice of the adoption proceeding by registered or certified mail to his last known address and such father fails to object to the adoption proceeding within twenty-one days of the mailing of such notice; or

(3) By the child-placing agency or the local board of public welfare or social services having custody of the child, with right to place him for adoption, through court commitment or parental agreement as provided in § 63.1-56 or § 63.1-204 of the Code; or an agency outside the State which is licensed or otherwise duly authorized to place children for adoption by virtue of the laws under which it operates; or

(4) If after hearing evidence the court finds that the consent of any person or agency whose consent is hereinabove required is withheld contrary to the best interests of the child, or if a valid consent is unobtainable, the court may, twenty-one days after personal service of notice of petition on the party or parties whose consent is required by this section or if personal service is unobtainable ten days after the completion of the execution of an order of publication against the party or parties whose consent is required by this section concerning the petition, grant the petition without such consent; provided, however, that no such notice of the petition by personal service or by order of publication shall be required if the judge shall certify on the record that the identity of any person whose consent is hereinabove required is not reasonably ascertainable.

For the purposes of this section, an affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.

If the child is not in the custody of a child-placing agency and both parents are deceased, the court, after hearing evidence to that effect, may grant the petition without the filing of any consent.

Parental consent to an adoption executed pursuant to this section shall be revocable prior to the final order of adoption (i) upon proof of fraud or duress or (ii), after placement of the child in an adoptive home, upon written, mutual consent of the natural parents and proposed adoptive parents.

§ 63.1-236. Disposition of reports; disclosure of information as to identity of biological family.—Upon the entry of a final order of adoption, or other final disposition of the matter, the clerk of the court in which it was entered shall forthwith transmit to the Commissioner all reports made in connection with the case, and the Commissioner shall preserve such reports in a separate file which shall not be open to inspection, or be copied, by anyone other than the adopted child, if eighteen years of age, licensed or authorized child-placing agencies providing services to the child and the adoptive parents, except upon the order of a circuit court entered upon good cause shown. No information with respect to the identity of the biological family of the adopted child shall be disclosed, opened to inspection or made available to be copied except (i) upon application of the adopted child, which child is eighteen or more years of age, (ii) upon the order of a circuit court entered upon good cause shown, and (iii) after notice to and opportunity for hearing by the applicant for such order, the child-placing agency involved in the adoptive placement. If the identity and whereabouts of the adoptive parents and the biological parents are known to the child-placing agency, the court may require the child-placing agency to advise the adoptive parents and the biological parents of the pendency of the application for such order. In determining good cause for the disclosure of such information, the court shall consider the relative effects of such action upon the adopted person, the adoptive parents and the biological parents.

Upon entry of a final order of adoption or other final disposition of a matter involving the placement of a child by a licensed child-placing agency or a local board of public welfare or social services or an investigation by the local superintendent of a placement for adoption of a child, the agency or local board shall transmit to the Commissioner all reports and collateral information in connection with the case which shall be preserved by the Commissioner in accordance with this section.

SENATE JOINT RESOLUTION NO....

Expressing the sense of the General Assembly concerning compliance with and enforcement of the laws governing the placement of children for adoption.

WHEREAS, a joint subcommittee of the Senate of Virginia and the House of Delegates has studied during 1977 the placement of children for adoption; and

WHEREAS, it has been determined that the laws providing for the licensure of persons permitted to engage in the placement of children in adoptive homes have been enacted by the General Assembly to safeguard the children and parties involved in the adoption process; and

WHEREAS, the failure to comply with and enforce the statutes restricting the placement of children for adoption to natural parents and legal guardians, local boards of public welfare and social services and licensed child-placing agencies constitutes a threat to the well-being of children available for adoption and the natural and adoptive parents of these children; now, therefore, be it

RESOLVED by the Senate of Virginia, the House of Delegates concurring, that it is the sense of this body that the Commonwealth's Attorneys, the State Department of Welfare and the Office of the Attorney General shall diligently seek compliance with and enforcement of the statutes and policies of the Commonwealth with regard to the placement of children in adoptive homes.

