



VIRGINIA COMMISSION ON YOUTH

Restoration of Parental Rights Study Findings and Draft Recommendations

Presented to the Commission on Youth on October 17, 2012 for action on December 3, 2012

Findings

- Foster care is intended to be a temporary safety net for children who are abused or neglected. Ideally, children exit foster care by reunifying with a birth parent, living with a guardian, or being adopted.
- Unfortunately, the child welfare system does not locate a family for every child. In 2010, 11% of children exiting the system did so by “aging out,” meaning they were emancipated from foster care at age 18 or older without a safe and permanent family. Virginia ranks first among the states in the percent of children who age out of foster care without a permanent placement.
- In 2011, the Virginia Department of Social Services reported that 18 youth aged out of foster care following the termination of their parents’ parental rights.
- When youth age out of foster care, they lack the moral and financial support of parents, relatives, and other supportive adults. These children face especially difficult odds as they transition to adulthood, finding themselves at risk for homelessness, exposure to or involvement in the criminal justice system, and reliance on public assistance.

RECOMMENDATION

Amend the *Code of Virginia* by adding a section numbered 16.1-283.2, providing a procedure to restore the parental rights of a parent whose rights had been previously terminated, with the following conditions:

Age of Juvenile: 14 years of age

Exceptions to Age Requirement

Younger Sibling Exception

The juvenile must be a certain age, or a younger sibling of a juvenile of sufficient age for whom restoration is being sought, and the younger sibling independently meets the criteria for restoration; and

LDSS and GAL File Jointly

A restoration petition may be filed for a juvenile who does not meet the age requirement where his or her guardian ad litem and the local department of social services jointly file the petition for restoration.

Who May File: the local departments of social services (LDSS) or the juvenile’s guardian ad litem

Required Time Period Post-Termination: Two years

Time Period Exception: 18th Birthday Exception

Where the required two year time period would expire after the juvenile’s 18th birthday, the petition may be brought sooner.

Who Must Consent: the juvenile and the parent whose rights are being restored

Use a *best interests* standard with a *clear and convincing* burden of proof.

Limit the availability of the restoration procedure for those cases in which a parent’s parental rights were terminated pursuant to §16.1-283(B), (C), or (D).

Provide for a transitional period, during which the juvenile is in the physical custody of the parent and the legal custody of the local department of social services.