

Code of Virginia
Title 16.1. Courts Not of Record
Chapter 11. Juvenile and Domestic Relations District Courts

§ 16.1-278.3. Relief of care and custody.

A. Within 60 days of a hearing on a petition for relief of the care and custody of any child pursuant to § [16.1-277.02](#) at which the court found (i) good cause for the petitioner's desire to be relieved of a child's care and custody or (ii) that permanent relief of custody and termination of residual parental rights is in the best interest of the child, a dispositional hearing shall be held, if a final order disposing of the matter was not entered at the conclusion of the hearing on the petition held pursuant to § [16.1-277.02](#).

B. Notice of the dispositional hearing shall be provided to the local department of social services, the guardian ad litem for the child, the child if he is at least 12 years of age, and the child's parents, custodian or other person standing in loco parentis. However, if a parent's residual parental rights were terminated at the hearing on the petition held pursuant to § [16.1-277.02](#), no such notice of the hearing pursuant to this section shall be provided to the parent. The hearing shall be held and a dispositional order may be entered, although a parent, guardian, legal custodian or person standing in loco parentis fails to appear and is not represented by counsel, provided personal or substituted service was made on the person, or the court determines that the person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort. However, in the case of a hearing to grant a petition for permanent relief of custody and terminate a parent's residual parental rights, notice to the parent whose rights may be affected shall be provided in accordance with the provisions of §§ [16.1-263](#) and [16.1-264](#).

C. The court may make any of the orders of disposition permitted in a case involving an abused or neglected child pursuant to § [16.1-278.2](#). Any such order transferring legal custody of the child shall be made in accordance with the provisions of subdivision A 5 of § [16.1-278.2](#) and shall be subject to the provisions of subsection D1. This order shall include, but need not be limited to, the following findings: (i) that there is no less drastic alternative to granting the requested relief; and (ii) that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the child, if the order transfers legal custody of the child to a local board of social services. Any preliminary protective orders entered on behalf of the child shall be reviewed at the dispositional hearing and may be incorporated, as appropriate, in the dispositional order. If the child has been placed in foster care, at the dispositional hearing the court shall review the foster care plan for the child filed by the local board of social services or child welfare agency in accordance with § [16.1-281](#).

D. If the parent or other custodian seeks to be relieved permanently of the care and custody of any child and the court finds by clear and convincing evidence that termination of the parent's parental rights is in the best interest of the child, the court may terminate the parental rights of that parent. If the remaining parent has not petitioned for permanent relief of the care and custody of the child, the remaining parent's parental rights may be terminated in accordance with the provisions of § [16.1-283](#). Any order terminating parental rights shall be accompanied by an order (i) continuing or granting custody to a local board of social services or to a licensed child-placing agency or (ii) granting custody or guardianship to a person with a legitimate interest. Such an order continuing or granting custody to a local board of social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. Proceedings under this section shall be advanced on the docket so as to provide for their earliest practicable disposition. At any time subsequent to the transfer of legal custody of the child pursuant to this section, a birth parent or parents of the child and the pre-adoptive parent or parents may enter into a written post-adoption contact and communication agreement in accordance with the provisions of § [16.1-283.1](#) and Article 1.1 (§ [63.2-1220.2](#) et seq.) of Chapter 12 of Title 63.2. The court shall not require a written post-adoption contact and communication agreement as a precondition to entry of an order in any case involving the child.

D1. Any order transferring custody of the child to a person with a legitimate interest pursuant to subsection C or D shall be entered only upon a finding, based upon a preponderance of the evidence, that such person is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a person with a legitimate interest should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

E. The local board or licensed child-placing agency to which authority is given to place the child for adoption and consent thereto after an order terminating parental rights is entered pursuant to this section shall file a written Adoption Progress Report with the juvenile court on the progress being made to place the child in an adoptive home. The report shall be filed with the court every six months from the date of the final order terminating parental rights until a final order of adoption is entered on behalf of the child in the circuit court. At the conclusion of the hearing at which termination of parental rights is ordered and authority is given to the local board or licensed child-placing agency to place the child for adoption, the juvenile court shall schedule a date by which the board or agency shall file the first Adoption Progress Report required by this section. A copy of the Adoption Progress Report shall be sent by the court to the guardian ad litem for the child. The court may schedule a hearing on the report with or without the request of a party.

F. A dispositional order entered pursuant to this section is a final order from which an appeal may be taken in accordance with § [16.1-296](#).

1991, c. 534; 1999, c. [889](#); 2000, c. [385](#); 2009, cc. [98](#), [260](#); 2010, c. [331](#); 2013, c. [130](#); 2019, c. [434](#).