

## OFFICE OF THE CHILDREN’S OMBUDSMAN RELIEF OF CUSTODY WORK GROUP

### DRAFT STUDY PLAN

#### Study Mandate

- The 2025 General Assembly passed and the Governor approved Senate Bill 1372 (Suetterlein) and House Bill 1733 (Cole) which included a third enactment clause directing the Office of the Children's Ombudsman to convene a work group to determine the factors a court should consider for good cause shown to grant a petitioner's petition for relief of care and custody of a child.
  - The Commission on Youth shall participate in the Office of Children’s Ombudsman work group on the factors the court uses in evaluating a relief of custody petition. The Commission shall also receive a report of the work group's findings and recommendations before the 2026 General Assembly Session.

#### Background

- During the 2024 interim the Commission on Youth conducted a study on “The Use and Impact of Relief of Custody on Care and Support of Youth.”
- The Commission on Youth adopted a recommendation at its November 2024 meeting to introduce legislation to create a work group to determine the factors that a judge should consider for “good cause shown” for the petitioner's desire to be relieved of the child's care and custody.
- At its November 2024 meeting, the Commission on Youth also adopted a recommendation to amend the *Code of Virginia* to increase the standard of evidence for granting temporary Relief of Custody. This recommendation was later added to the above work group’s charge during the 2025 Session.
- Enactment clause three in Senate Bill 1372 (Suetterlein) and House Bill 1733 (Cole) is stated as follows:
  - The Office of the Children's Ombudsman shall convene a work group to determine the factors a court should consider for good cause shown to grant a petitioner's petition for relief of care and custody of a child. The work group shall also explore the potential benefits and considerations of raising the standard of evidence for granting temporary relief of custody from the current standard of preponderance of the evidence to clear and convincing evidence. The work group shall be composed of judges of juvenile and domestic relations district courts, a representative from the Office of the Executive Secretary of the Supreme Court of Virginia, one or more representatives from the Department of Social Services, representatives from local departments of social services and court services units, and other relevant stakeholders. The Office of the Children's Ombudsman shall submit a report of the work group's findings and recommendations to the Chairs of the House and Senate Committees for Courts of Justice and the Virginia Commission on Youth by November 1, 2025.

**Identified Issues**

- During the 2024 interim the Commission on Youth held 4 regional roundtables and an Advisory group meeting. Judges, executive branch, legislative branch, and local social services, mental health and school professionals vetted recommendations made by the Commission. Fourteen Judges participated in this study as part of the work groups and Advisory Group.
- During the study, the Commission considered proposing adding “a petitioner’s diligent efforts to utilize services offered by the local department of social services or other agency” as a factor for good cause shown when a judge is making a finding on a relief of custody petition under § 16.1-277.02.
- Currently there are no prescribed factors that a judge looks at for considering good cause shown in granting a petition. However, it was decided by the Commission to direct a work group of judges and other stakeholders to come up with a list of factors for good cause shown.
- The Commission on Youth also adopted a recommendation and proposed raising the standard of evidence for granting temporary relief of custody from the current standard of preponderance of the evidence to clear and convincing evidence. This was based on the discussion and consensus of judges at our work groups that the standard of evidence should be higher to begin with.
- The General Assembly considered the above recommendation and decided to add the potential benefits and considerations of raising the standard of evidence for granting temporary relief of custody to the work group’s efforts.

**Study Activities**

- Monitor any relevant updates on foster care and relief of custody cases.
- Commission on Youth staff shall participate in the Office of Children’s Ombudsman work group on the factors the court uses in evaluating a relief of custody petition.
- Receive and review any findings and recommendations made by the Office of the Children’s Ombudsman’s work group findings and recommendations before the 2026 General Assembly Session.