

## Draft Recommendations

### Relief of Custody

#### Background – Factors for Good Cause

The Office of Children’s Ombudsman work group organized pursuant to [House Bill 1733](#) and [Senate Bill 1372](#) recommends that the following factors be considered by courts in determining whether there is good cause to grant a petition for the relief of care and custody of a child:

#### Recommendation 1:

Request that in their next update of the District Court Judges’ Benchbook, the Office of the Executive Secretary of the Supreme Court of Virginia include the following factors for a judge to consider in determining whether there is good cause to grant a petition for the relief of care and custody of a child:

1. Any safety concerns for the child, petitioner, or other members of the child’s household;
2. The petitioner’s relationship with the child and, if a non-parent, the circumstances by which the petitioner has custody and care of the child, the petitioner’s ability to meet the needs of the child, and whether the petitioner is seeking temporary respite or permanent relief of custody and care;
3. The services obtained by the petitioner or currently provided to the child, including privately and publicly available mental health and educational services, the efforts made by the petitioner to access services, and the extent to which such services, if any, have been effective;
4. The extent to which alternative remedies to relief of custody and care are available, including the filing of a CHINS petition or seeking residential treatment for the child by parental placement or through FAPT or the local department of social services whereby the petitioner retains legal custody of the child; and
5. Such other factors as the court deems necessary and proper to the determination of good cause.

#### Background – Add “Custodian” to Jurisdictional Statute

While reviewing the statutes pertinent to relief of custody, work group members identified a provision that it recommends be amended to clarify the court’s jurisdiction in hearing petitions for relief of custody filed by non-parent petitioners, such as relatives. [Virginia Code § 16.1-241](#) grants the juvenile and domestic relations district court jurisdiction over “cases, matters, and proceedings involving the custody, visitation, support, control or disposition of a child...whose parent or parents for good cause desire to be relieved of his care and custody.”

**Recommendation 2:**

Amend the *Code of Virginia* § 16.1-241(A)(4) to include non-parent petitioners as follows: “whose parent or ~~parents~~ custodian for good cause desires to be relieved of his care and custody.”

**Background – Require Cooperation With Offered Services**

Additionally, members of the Office of Children’s Ombudsman work group, primarily the participating judges, expressed the need for the Code to require petitioners to cooperate with the local department of social services in accessing services to prevent the breakup of the family. It was noted that when custody of a child is transferred to the local department of social services and placed in foster care, the court must find that reasonable efforts were made to prevent removal of the child from their home. The parent or custodian asking to be relieved of custody should be required to cooperate with the local department so that such reasonable efforts can be made.

**Recommendation 3:**

Amend the *Code of Virginia* sections as follows:

§ 16.1-277.02 (A). Requests for petitions for relief of the care and custody of a child shall be referred initially to the local department of social services for investigation and the provision of services, if appropriate, in accordance with the provisions of § 63.2-319 or Chapter 15 (§ 63.2-1500 et seq.) of Title 63.2. The petitioning parent or custodian shall cooperate with the appropriate services offered by the local department of social services. The local department of social services shall, as part of its investigation, (i) refer the parent to the local family assessment and planning team and (ii) create a written report regarding the history of the child and family.

§ 16.1-278.3 (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, and, unless continued placement in the home would be contrary to the welfare of the child, the petitioner has cooperated with the local department of social services to prevent the child from being removed from the home, 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.

**Note:** For more information on these recommendations please see the [Report of the Work Group Convened Pursuant to House Bill 1733 and Senate Bill 1372](#) published by The Office of the Children’s Ombudsman on October 31, 2025.