

Office of the Children's Ombudsman



Relief of Custody Work Group Update

Virginia Commission on Youth
October 21, 2025



That 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.

- House Bill 1733 and Senate Bill 1372

STANDARD OF EVIDENCE:

The work group recommends that the current standard of evidence for granting temporary relief of care and custody of a child – preponderance of the evidence – remain.

- Maintains consistency with the standards of evidence for abuse and neglect petitions.
- Aligns with the preponderance of the evidence standard required by statute for the temporary removal of children from parents and caregivers and placement in foster care.
- It also ensures that petitioners will have the opportunity to seek more immediate relief when necessary.

GOOD CAUSE FACTORS:

- Any safety concerns for the child, petitioner, or other members of the child's household;
- 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;
- 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;
- 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
- Such other factors as the court deems necessary and proper to the determination of good cause.

STATUTORY AMENDMENT

Va. Code § 16.1-241 (Jurisdiction of the JDR courts), subsection (A)(4):

- Currently reads “whose parent or parents for good cause desire to be relieved of his care and custody.”
- Should be changed to “whose parent *or custodian* for good cause desires to be relieved of his care and custody.”