



COMMONWEALTH OF VIRGINIA

# Commission on Youth

# *Relief of Custody*

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- The Virginia Commission on Youth approved a recommendation at its November 20, 2023 meeting regarding the reported increased use of relief of custody to discuss, review, and make recommendations regarding the practice:
  - Direct the Commission on Youth to review concerns surrounding the increased use of temporary and permanent relief of custody to place a child in foster care. The Commission shall convene an advisory group to assess this concern. This advisory group shall include the Department of Social Services, Department of Behavioral Health and Developmental Services, Department of Juvenile Justice, the Court Improvement Program, Local Departments of Social Services, Community Services Boards, and other relevant stakeholders.



- Parents and caregivers have the legal right to petition for relief of custody of a child in their care under *Code of Virginia* § 16.1-277.02.
  
- There are two main *Code* sections for relief of custody.
  - Article 8. Adjudication: § 16.1-277.02. Petition for relief of care and custody.
  - Article 9. Disposition: § 16.1-278.3. Relief of care and custody.



## Previous regional roundtables:

- Southwest Virginia – June 24
- Central Virginia – July 31
- Northern Virginia – Aug. 26
- Tidewater – Sept. 4

## Perspectives from the roundtable:

- Social Services
- Judges
- CSA
- Mental Health
- Schools
- Private Providers
- CSU
- Families



- By the time the petition is filed, it is usually too late to improve the family and home life situation
- Parents can only focus on getting quick fixes; not able to fully consider long-term consequences
- Parents do not know how to engage services earlier in the process/ they do not want services coming in the home / or are not available in a locality
- Schools are typically the first point of contact in the relief of custody timeline but are underequipped to provide support



- Determining the proper role of the courts service units in directing parents at intake for services available in the community
- Concerns with law enforcement recommending relief of custody to parents in some localities
- Reported uptick in cases involving out-of-state children living with informal kinship placements in VA or dissolved adoptions
- Problems tend to crop up when a child is entering the teenage years, especially for international adoptions – related to underlying trauma



- Multidisciplinary teams could help improve communications between local agencies
- Judges in different areas of the state either see several cases a year or hardly any
- Desire, especially among judges, for requiring parent engagement in the Code of Virginia
- Misconception among parents that certain services can be accessed only if their child is in foster care
- CSA parental agreements and services may be underutilized

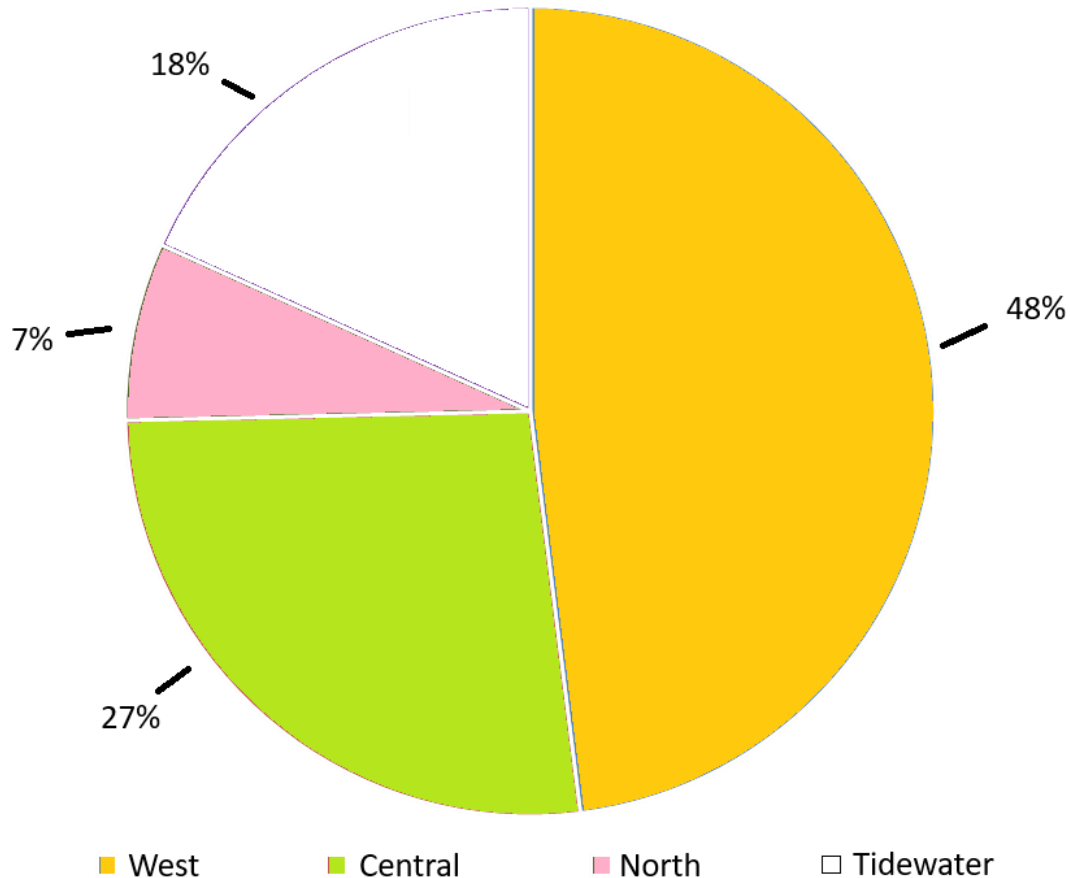




# JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT DATA

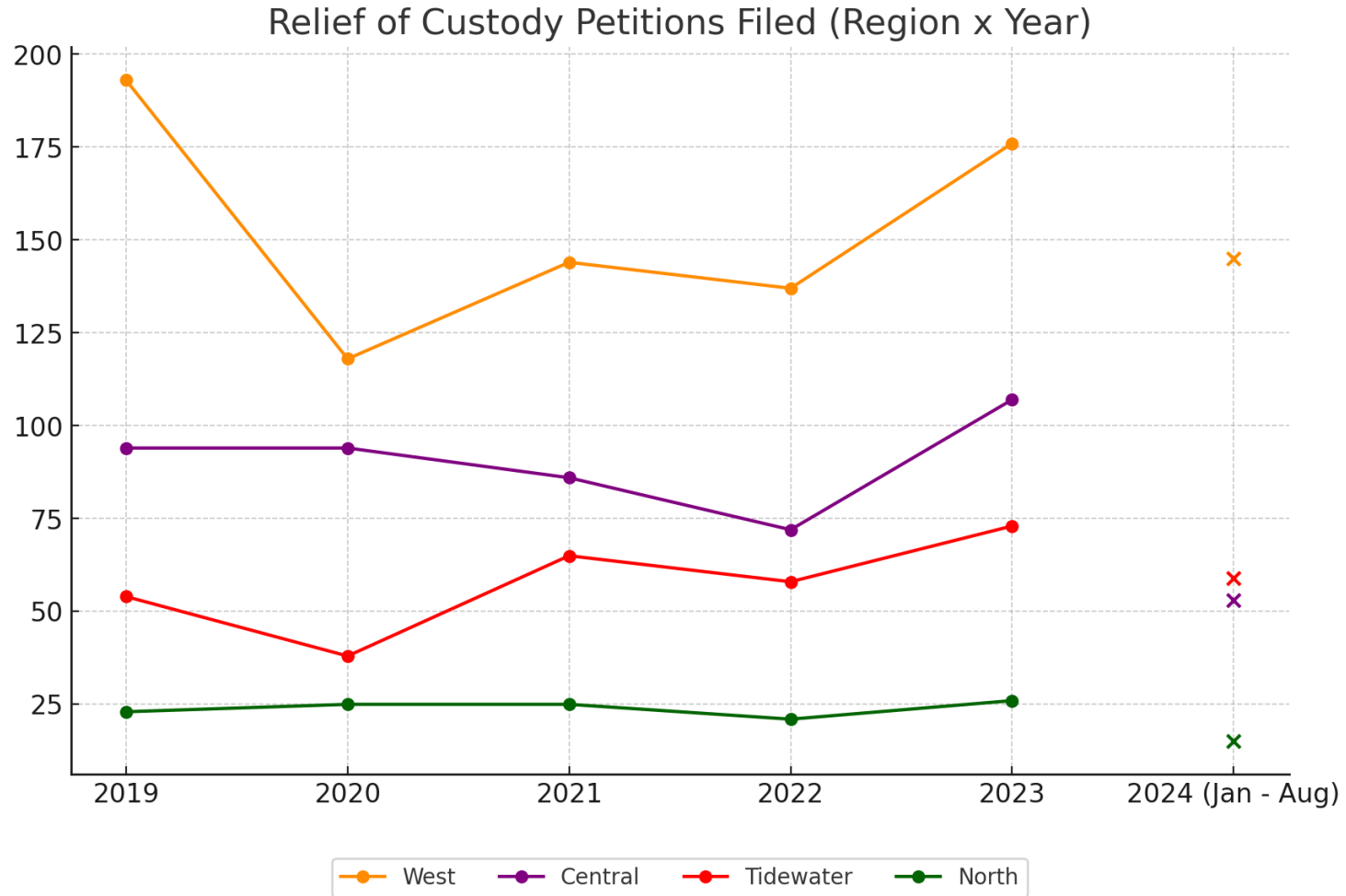


## Relief of Custody Petitions Filed by Region (2019 - Aug. 2024)



Note: Data from Office of the Executive Secretary, Supreme Court of Virginia, CY 2019-2024.

# JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT DATA



Note: Data from Office of the Executive Secretary, Supreme Court of Virginia, CY 2019-2024.



- Advisory Group met in Richmond on October 8
- Group heard a presentation on roundtables themes and data
- Discussed draft recommendations



# ADVISORY GROUP MEMBERSHIP



- Family Focused Treatment Association - VA Chapter
- Guardian Ad Litem
- Juvenile & Domestic Relations District Court
- Office of Children's Services
- Office of the Children's Ombudsman
- Office of the Executive Secretary, Supreme Court of Virginia
- Senate of Virginia
- Virginia Association of Community Services Boards
- Virginia Association of Licensed Child Placing Agencies
- Virginia Association of Licensed Child Placing Agencies
- Virginia Commission on Youth
- Virginia Department of Behavioral Health and Developmental Services
- Virginia Department of Education
- Virginia Department of Juvenile Justice
- Virginia Department of Social Services
- Virginia House of Delegates
- Virginia League of Social Services Executives
- Voices for Virginia's Children



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# *Draft*

# *Recommendations*

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**Recommendation 1:** Amend the *Code of Virginia* to standardize the pre-hearing “investigation” in § 16.1-277.02 (A) by requiring the local department of social services, at a minimum, put together a written home study report on the child and family.

The Department of Social Services shall create guidance for a template on what should be included in this home study. This template should include best practices, not limited to background on the full history of child and family (medical and mental health, legal, educational, information from providers), and the exploration of all relatives and fictive kin. Information on what services are being and have been offered to the child and family and potential use of a family partnership meeting should also be in the home study.



**Recommendation 2:** Amend the *Code of Virginia* § 16.1-277.02 to require that when investigating a petition for Relief of Custody, the local department of social services shall refer the parent to the local Family Assessment and Planning Team (FAPT).

**Recommendation 3:** Amend the *Code of Virginia* § 16.1-277.02 (C) to include “a petitioner’s diligent efforts to utilize services offered by the local department of social services or other agency (CSA, CSB)” as a factor in the judge’s consideration of “good cause shown” for the petitioner's desire to be relieved of the child's care and custody.



**Recommendation 4:** Amend the *Code of Virginia* to increase the standard of evidence for granting temporary Relief of Custody. Currently, temporary Relief of Custody requires “a finding, based upon a preponderance of the evidence, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody.” Permanent relief of custody requires “a finding, based upon clear and convincing evidence, whether termination of parental rights is in the best interest of the child.”

This amendment to the *Code* would change the language in § 16.1-277.02 (C) to: “a finding, based upon ~~a preponderance of the evidence~~ *clear and convincing evidence*, whether there is good cause shown for the petitioner's desire to be relieved of the child's care and custody.”





**Recommendation 5:** Amend the *Code of Virginia* § 2.2-5211 and 2.2-5212 to clarify that children in need of services are eligible for Children's Services Act (CSA) parental agreements and community based services.

**Recommendation 6:** Request that the Office of Children's Services work with local Children's Services Act coordinators to create a strategy to publicize community based services or parental agreements to relevant local partners and agencies as a viable option for families before they reach the point of petitioning for Relief of Custody.



**Recommendation 7:** Request the Department of Social Services create guidance or initiate regulatory changes to strengthen the ability of adoptive families to find and obtain services in their current locality if the family has moved localities after an adoption is finalized. The Department of Social Services shall report back on these changes to the Commission on Youth by November 1, 2025, including if any changes to the Code are necessary to fully support this recommendation.

Currently, under § 63.2-1220, “the Department shall furnish a document listing all post-adoption services available to adoptive families to the State Registrar of Vital Records for distribution to adoptive parents pursuant to § 32.1-261.” However, over time parents may lose track of this information or service availability may change.



**Recommendation 8:** Request that the Virginia Association of Licensed Child Placing Agencies, Family Focused Treatment Association, and other organizations representing licensed child placing agencies work with their members to ensure that pre-adoption training emphasize trauma-informed parenting, and cover topics including:

- commonly-occurring mental health and neurodevelopmental conditions
- child and adolescent development
- building and utilizing support systems
- supports available to adoptive families



**Recommendation 9:** Require that the Virginia Department of Education (VDOE) survey local education agencies (LEAs) to review i) how schools currently grant access to Local Departments of Social Services and Community Services Boards and ii) what school-based mental health options are available at each LEA.

Additionally, the results and feedback from this survey shall inform the continued development and improvement of guidelines for school professionals that support students and families that connect them with community resources that provide mental and behavioral health services. VDOE shall report back any findings and recommendations based on their survey to the Commission on Youth by November 1, 2025.



**Recommendation 10:** Request that the Virginia League of Social Services Executives compile and make available information gathered from local departments on best practices regarding collaboration between local agencies and judges regarding relief of custody. This should include details on the frequency of meetings, types of shared information, methods of communication, and recommendations for improving engagement. This recommendation will help provide local departments with model examples of where things are going well.



**Recommendation 11:** Request that the Department of Juvenile Justice develop best practices to distribute to its court service units for when a parent comes in to intake desiring to petition for relief of custody to inform them of services available in their community.

**Recommendation 12:** Request that the Virginia Sheriffs' Association and Virginia Association of Chiefs of Police with assistance from the Department of Social Services come up with best practices to distribute to its members on alternatives to relief of custody when they encounter families in crisis to inform them of services available in their community.



- The Commission will be accepting written public comment through November 21
- Directions for submitting public comment will be posted on the Commission's website (<https://vcoy.virginia.gov>) following today's meeting
- The Commission will receive in person public comment and vote on draft recommendations at the November 25 Commission meeting, at 10:30 a.m. at the General Assembly Building



# Questions/Comments?

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