



COMMONWEALTH of VIRGINIA

Office of the Governor

Office of the Children's Ombudsman

Eric J. Reynolds, Esq., Director

October 29, 2025

The Honorable Scott Surovell, Chair
Courts of Justice Committee
Virginia Senate
923 East Broad Street
Richmond, Virginia 23219

The Honorable Patrick Hope, Chair
Courts of Justice Committee
Virginia House of Delegates
923 East Broad Street
Richmond, Virginia 23219

Virginia Commission on Youth:

The Honorable Barbara Favola, Chair
The Honorable Carrie Coyner, Vice-Chair
The Honorable Dave Marsden, Virginia Senate
The Honorable David Suetterlein, Virginia Senate
The Honorable Josh Cole, Virginia House of Delegates
The Honorable Karrie Delaney, Virginia House of Delegates
The Honorable Holly Seibold, Virginia House of Delegates
The Honorable Irene Shin, Virginia House of Delegates
The Honorable Anne Ferrell Tata, Virginia House of Delegates
The Honorable Mackenzie Babichencko
Rita Jones

Dear Senator Surovell, Delegate Hope, and members of the Virginia Commission on Youth,

I am pleased to submit the Report of the Office of the Children's Ombudsman Relief of Custody Work Group, convened in accordance with House Bill 1733 and Senate Bill 1372 (Chapters 138 and 155 of the Virginia Acts of Assembly – 2025 Session, respectively). I greatly appreciate the opportunity to serve on this work group and to present our recommendations for improving child welfare proceedings in Virginia's court system.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Eric J. Reynolds".

Eric J. Reynolds, Director
Office of the Children's Ombudsman



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Office of the Children's Ombudsman
Eric J. Reynolds, Esq., Director

REPORT OF THE WORK GROUP CONVENED PURSUANT TO HOUSE BILL 1733 AND SENATE BILL 1372

[House Bill 1733](#) and [Senate Bill 1372](#) (Chapters 138 and 155 of the Virginia Acts of Assembly – 2025 Session, respectively) directed the following:

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.

The legislation was introduced as a result of recommendations adopted by the Commission on Youth following its 2024 study, [The Use and Impact of Relief of Custody on Care and Support of Youth](#).

The Office of the Children's Ombudsman convened the work group, the members of which are listed on Appendix A. Virtual meetings were held on June 5, 2025, August 14, 2025, and October 14, 2025. In accordance with the legislation and the [Commission on Youth's Study Plan](#), the work group discussed (i) factors a court should consider for good cause shown to grant a petition for the relief of care and custody of a child; and (ii) the benefits and considerations of raising the standard of evidence for granting temporary relief of custody. The work group also identified a potential need for legislation amending statutory provisions related to petitions for the relief of care and custody of a child.

At its October meeting, the workgroup received an update from the Office of the Executive Secretary for the Supreme Court of Virginia that recent court data indicates an 11% decrease in the number of relief of custody petitions filed statewide since October 2024, and a 14% decrease in dispositions, with several localities showing an increase in dispositions.

The work group's conclusions and recommendations are summarized in this Report for the Chairs of the House and Senate Committees for Courts of Justice and the Virginia Commission on Youth.

Background.

At the conclusion of its 2024 study, the Commission on Youth identified the following issues regarding relief of custody proceedings, as described in its [Study Plan](#) for this work 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.

The work group engaged in robust discussions in its meetings and in follow-up emails and phone consultations among work group members. Judges of the juvenile and domestic relations district courts provided valuable feedback regarding the factors they currently consider in determining good cause to grant relief of custody. Other work group members shared information that was insightful and practical based on their experience working directly with families and children involved in relief of custody proceedings.

Work group members expressed the need to prevent the relief of custody process from being misused as a means of “sanctioning abandonment” of a child by a parent or custodian. Thus, the reason(s) for a petitioner’s request for relief should be substantial. One member suggested that if courts must find that reasonable efforts were made to prevent a child from being removed from their parent or caregiver by the local department of social services, reasonable efforts should similarly be required to be made by parents and custodians if they seek to be relieved of their responsibility to care for the child. More than one judge expressed concern for the children that attend relief of custody hearings and are present to hear how their parent or custodian is “giving up on them.”

Other members, on the other hand, expressed that some petitioners have accessed and tried many services but were unsuccessful in addressing a child’s challenging behavioral health needs before filing a petition for relief of custody as a last resort. Several members noted that some petitioners are relatives or other non-parents who had taken custody of the children when they were younger but may no longer be able to meet the children’s increasingly challenging needs. Members also expressed a need for localities to expedite the holding of FAPT meetings for families filing relief of custody petitions in order to access services more quickly.

Factors for Good Cause Determinations.

Work group members discussed the following questions that are relevant to determining whether there is good cause for a petitioner to be relieved of custody of a child:

- Are there any safety concerns for the child, the parents or custodians, or other members of the household if the child were to remain in the home?
 - How immediate is the need for safety measures to be taken?
- What is the petitioner's relationship with the child – a parent, relative, or fictive kin?
 - If a non-parent, how and why did the petitioner have custody?
 - If a non-parent, are they seeking to be permanently relieved of custody and care or are they only seeking a temporary respite?
- What services have been sought by the petitioner for the child?
 - Services provided by the child's school (e.g. 504 Plans and IEPs)
 - Mental and behavioral health services (e.g. individual counseling, family counseling, Intensive In-Home, etc.)
 - Was the family referred to the local FAPT?
 - Does the family have a case manager through FAPT or otherwise (e.g. Medicaid MCO care coordinator)?
 - To what degree were such services effective?
- Are there barriers to a petitioner's access to services?
 - Are the proper services available in the community?
 - Are there services that are not available to the petitioner that would otherwise be available to the child if the child was in foster care?
- Is there substance misuse by the child or petitioner?
 - Are either undergoing substance use treatment?
- Has the petitioner requested assistance from relatives?
 - For respite (temporary) care
 - As a possible permanent custodian
- If the child's behavior is the reason for filing the petition:
 - What other options, such as submitting a CHINS petition, were discussed with the court services unit?
 - Is the child receiving services through the court services unit due to pending delinquency matters?
 - Was a noncustodial parental agreement with the local department of social services or a parental placement agreement with the FAPT discussed if the child's needs may be met in a residential treatment facility?

The work group 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:

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.

Standard of Evidence.

After exploring and weighing the benefits and considerations for raising the standard of evidence required for granting temporary relief of custody, the work group concluded that the preponderance of the evidence standard is the appropriate standard for the granting of temporary relief of custody and care of a child.

1. This will maintain consistency and alignment with the standards of evidence established in other child dependency proceedings, such as petitions alleging abuse and neglect of a child, in which a preponderance of the evidence standard is required to order the removal of children from parents and their placement in foster care.

The higher evidentiary standard of clear and convincing evidence is appropriate for the courts to grant permanent relief of custody, given the gravity and drastic nature of this relief as a parent is voluntarily terminating their parental rights and responsibilities to the child. This aligns with the standard that applies for a court to order the involuntarily termination of parental rights.

2. Maintaining the preponderance of the evidence standard for the granting of temporary relief of custody and care also ensures that petitioners will have the opportunity and lesser evidentiary burden to obtain more immediate relief when necessary.

Recommended Statutory Amendments.

1. 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. The jurisdiction of the juvenile and domestic relations district courts is governed by [Virginia Code § 16.1-241](#), which grants the courts 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." [Virginia Code § 16.1-241\(A\)\(4\)](#). The work group recommends that this provision be amended to include non-parent petitioners: "whose parent or ~~parents~~ custodian for good cause desires to be relieved of his care and custody."

2. Additionally, members of the 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.

Accordingly, consideration should be given to the following as possible statutory amendments:

§ 16.1-277.02¹

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.

¹ The language of subsection A of § 16.1-277.02 cited here includes language added by legislation passed in the 2025 Session of the General Assembly that will go into effect January 1, 2026.

APPENDIX A

2025 Relief of Custody Work Group Members

Judges

- The Hon. Lee Chitwood, Judge, Juvenile & Domestic Relations District Court – 27th Judicial District
- The Hon. Jay Dugger, Judge Juvenile & Domestic Relations Court 8th Judicial District
- The Hon. Hilary Griffith, Judge, Juvenile & Domestic Relations District Court – 23rd Judicial District
- The Hon. Mary Langer, Judge, Juvenile & Domestic Relations Court 13th Judicial District
- The Hon. Florence Powell, Judge, Juvenile & Domestic Relations District Court – 28th Judicial District
- The Hon. Thomas Sotelo, Judge, Juvenile & Domestic Relations District Court – 19th Judicial District

Attorneys

- The Hon. Makenzie Babichenko, Commonwealth's Attorney, Hanover County
- Michael Bedsaul, Agency Attorney Sands Anderson PC, Christiansburg
- Morgan Cox, The Child Advocate Law Firm, PLLC, Charlottesville
- Matt Marcialis, Senior Assistant County Attorney, Fairfax County
- Patrick Murphrey, Senior Assistant City Attorney, Newport News

Virginia Department of Social Services

- Jennifer Lilly, Director, Western Regional Office, Virginia Department of Social Services
- Cayla Morris, Kinship Prevention Program Consultant, Sr., Virginia Department of Social Services
- Craig Patterson, Prevention Program Consultant, Sr., Virginia Department of Social Services

Local Department of Social Services/Children's Services Act (CSA) Staff

- Kimberly Ayers, Director, Wythe County Department of Social Services; Virginia League of Social Services Executives Child & Family Services Committee Chair
- Gwendolyn Coleman, Director, City of Roanoke Department of Human Services
- Oriane Eriksen, Division Director, Children, Youth and Families, Fairfax County Department of Family Services
- Denise Gallop, Director, Norfolk Department of Human Services
- Mills Jones, Director, Goochland Human Services; SLAT Chair
- Emily Kim, Foster Care Unit, Fairfax County Department of Family Services
- Stephen Principe, Foster Care Unit, Fairfax County Department of Family Services

Court Services Unit

- Timothy Prioleau, Director 8th District Court Service Unit

Community Services Board

- Morgan Greer, Youth & Family Services Director Mount Rogers Community Services

State Partners

- Beth Coyne, Assistant Director, Court Improvement Program, Office of the Executive Secretary, Supreme Court of Virginia
- Will Egen, Senior Legal Policy Analyst, Commission on Youth
- Regina Harris, Regional Program Manager/Southern Region, VA Department of Juvenile Justice
- Greg Hopkins, Division of Programs and Services, Office of Safer Communities and Youth Services
- Sandra Karison, Director, Court Improvement Program, Office of the Executive Secretary, Supreme Court of Virginia
- Jane Lissenden, Policy Analyst, Office of the Children's Ombudsman
- Scott Reiner, Executive Director, Office of Children's Services
- Eric Reynolds, Director, Office of the Children's Ombudsman
- Kari Savage, Director, Office of Child and Family Services, Virginia Department of Behavioral Health and Developmental Services
- Carol Wilson, Senior Program Consultant, Office of Children's Services

Private Providers

- Renee Brown, Chief Executive Officer, DePaul Community Resources Family Focused Treatment Association – Virginia Chapter
- Christopher Campbell, Vice President of Advocacy and Program Advancement, Virginia Home for Boys and Girls, Virginia Association of Licensed Child Placing Agencies

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

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.