

SENATE BILL NO. _____ HOUSE BILL NO. _____

1 A BILL to amend the Code of Virginia by adding a section numbered 16.1-283.2, relating to restoration
2 of parental rights.

3 **Be it enacted by the General Assembly of Virginia:**

4 **1. That the Code of Virginia is amended by adding a section numbered 16.1-283.2 as follows:**

5 **§ 16.1-283.2. Restoration of parental rights.**

6 A. If a child is in the custody of the local department of social services and a pre-adoptive parent
7 or parents have not been identified and approved for the child, the child's guardian ad litem or the local
8 board of social services may file a petition to restore the previously terminated parental rights of the
9 child's parent under the following circumstances:

10 1. The child is at least [12? 14?] years of age; (Need decision re: age at which child becomes
11 eligible)

12 2. The child was previously adjudicated to be an abused or neglected child, child in need of
13 services, child in need of supervision, or delinquent child;

14 3. The parent's rights were terminated under a final order pursuant to subsection B, C, or D of §
15 16.1-283 at least two years prior to the filing of the petition to restore parental rights;

16 4. The child has not achieved his permanency goal or the permanency goal was achieved but not
17 sustained; and

18 5. The child and the parent whose rights are to be reinstated consent to the restoration of the
19 parental rights.

20 B. Notwithstanding the provisions of subsection A, the court may accept a petition involving a
21 child younger than [AGE] years of age or a petition filed before the expiration of the two-year period
22 following termination of parental rights if it finds that accepting such a petition is in the best interest of
23 the child.

24 C. The court shall set a hearing on the petition and serve notice of the hearing along with a copy
25 of the petition on the former parent of the child whose rights are the subject of the petition, any other

26 parent who retains legal rights to the child, the child, the child's guardian ad litem, and the local board of
27 social services.

28 D. If court finds by clear and convincing evidence that (i) the child has not achieved or sustained
29 his permanency goal and is not likely to achieve his permanency goal within the next six months from
30 the date of the hearing and (ii) the restoration of parental rights is in the child's best interest, the court
31 shall enter a preliminary order restoring the parental rights of the child's parent forthwith, subject to the
32 probationary period provided for in this section and to the provisions of a final order of restoration of
33 parental rights. In determining whether restoration is in the best interest of the child, the court shall
34 consider the following:

35 1. Whether the parent whose rights are to be reinstated agrees to the reinstatement and has
36 substantially remedied the conditions that led to or required continuation of the child's foster care
37 placement;

38 2. The age and maturity of the child and the preference expressed by the child;

39 3. Whether the restoration of parental rights will present a risk to the child's life, health, or
40 development;

41 4. Whether the restoration of parental rights will affect benefits available to the child consistent
42 with the best interest of the child; and

43 5. Other material changes in circumstances, if any, that warrant the granting of the petition.

44 E. Prior to the entry of an order pursuant to subsection D, the local board of social services shall
45 develop a permanency plan for the child that may include contact with the parent whose rights have
46 been restored and shall ensure that supportive services are provided to the family as appropriate. Such
47 plan shall be incorporated into the order pursuant to subsection D.

48 F. If the court enters a preliminary order restoring the parental rights of the child's parent
49 pursuant to subsection D, the court may place the child in the custody of the parent whose rights have
50 been restored if such placement is in accordance with the terms of the permanency plan incorporated
51 into the order pursuant to subsection E and if the court finds, based upon a preponderance of the
52 evidence, that the parent (i) is willing and qualified to receive and care for the child; (ii) is willing to

53 have a positive, continuous relationship with the child; (iii) is committed to providing a permanent,
54 suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and
55 neglect.

56 G. After the entry of a preliminary order restoring parental rights to a child, the director of the
57 local board of social services shall cause or have caused the child to be visited at least three times within
58 a period of six months by an agent of such local board or local department. Whenever practicable, such
59 visits shall be made within the six-month period immediately following the date upon which the child
60 was placed in the physical care of the parent or of entry of the preliminary order; however, no less than
61 90 days shall elapse between the first visit and the last visit. Each of the three visits required pursuant to
62 this subsection shall be conducted in the presence of the child. At least one of the visits shall be
63 conducted in the home of the petitioner in the presence of the child and the parent. The director of the
64 local board of social services shall make a written report to the court, in such form as the Commissioner
65 may prescribe, of the findings made pursuant to such visitations. A copy of the report to the court shall
66 be furnished to the counsel of record for the parties. **[this language based on language in § 63.2-1212,**
67 **"visitation during probationary period and report" for adoptions]** If after consideration of the
68 report made pursuant to this subsection the court is satisfied that the best interests of the child will be
69 served thereby, the court shall enter a final order restoring parental rights to the child. **[this language**
70 **based on § 63.2-1213. "final order of adoption"]**

71 H. The court may, by order entered of record, revoke its preliminary order restoring parental
72 rights to a child at any time prior to the entry of the final order, for good cause shown, on its own
73 motion, or on the motion of the petitioner or of the child himself. **[this language based on § 63.2-1211,**
74 **"revocation of interlocutory order"]**

75 I. A petition for restoration of parental rights filed while the child is under 18 years of age shall
76 not become invalid because the child reaches 18 years of age prior to the entry of a final order of
77 restoration of parental rights. Any final order restoring parental rights to a child pursuant to this section
78 entered after a child reaches 18 years of age, where the petition was filed prior to the child turning 18

79 years of age, shall have the same effect as if the child was under 18 years of age at the time the order
80 was entered by the court. [this language based on the last paragraph of § 63.2-1201]

81 J. The granting of a petition under this section does not vacate the findings of fact or conclusions
82 of law contained in the original order that terminated the parental rights of the child's parent.

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