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HOUSE BILL NO. 1854

Offered January 13, 2025

Prefiled January 6, 2025

A BILL to amend and reenact § 16.1-283.2 of the Code of Virginia, relating to restoration of parental rights.

Patrons—Arnold and Lovejoy

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-283.2 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-283.2. Restoration of parental rights.

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

- 1. The child is at least 14 years of age;
- 2. The child was previously adjudicated to be an abused or neglected child, child in need of services, child in need of supervision, or delinquent child;
- 3. The parent's rights were terminated under a final order pursuant to subsection B, C, or D of § 16.1-283 at least two years prior to the filing of the petition to restore parental rights;
- 4. The child has not achieved his permanency goal or the permanency goal was achieved but not sustained; and
- 5. The child, if he is 14 years of age or older, and the parent whose rights are to be reinstated consent to the restoration of the parental rights.

B. Notwithstanding the provisions of subsection A, the court may accept (i) a petition involving a child younger than 14 years of age if (a) the child is the sibling of a child for whom a petition for restoration of parental rights has been filed and the child who is younger than 14 years of age meets all other criteria for restoration of parental rights set forth in subsection A, or (b) the child's guardian ad litem and the local department of social services jointly file the petition for restoration; or (ii) a petition filed before the expiration of the two-year period following termination of parental rights if the child will turn 18 before the expiration of the two-year period, and the court finds that accepting such a petition is in the best interest of the child.

B1. The court may accept a petition involving a child who is at least 16 years of age whose permanency goal has previously been achieved by adoption if (i) an adoptive parent of such child dies or seeks relief of custody, (ii) the parent whose rights previously had been terminated complied with the terms of any written post-adoption contact and communication agreement entered into pursuant to Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2, (iii) the parent whose rights are to be reinstated consents to the restoration of the parental rights, and (iv) the parent whose rights are to be reinstated has maintained a positive, continuous relationship with the child since termination. The child's guardian ad litem or the local board of social services may file a petition to restore the previously terminated parental rights of the child's parent.

C. The court shall set a hearing on the petition and serve notice of the hearing along with a copy of the petition on the former parent of the child whose rights are the subject of the petition, any other parent who retains legal rights to the child, the child's court-appointed special advocate, if one has been appointed, and either the child's guardian ad litem or the local board of social services, whichever is not the petitioner.

D. If the court finds, based upon clear and convincing evidence, that the parent is willing and able to (i) receive and care for the child; (ii) have a positive, continuous relationship with the child; (iii) provide a permanent, suitable home for the child; and (iv) protect the child from abuse and neglect, the court may enter an order permitting the local board of social services to place the child with the former parent whose rights are the subject of the petition, subject to the requirements of the placement plan developed pursuant to subsection E and for visitation required pursuant to subsection F.

E. Within 60 days of the filing of the petition for restoration of parental rights and prior to the entry of an order pursuant to subsection D, the local board of social services shall develop a written placement plan for the child, which shall (i) describe the programs, services, and other supports that shall be offered to the child and the former parent with whom the child has been placed and (ii) set forth requirements for the participation of the former parent with whom the child has been placed in programs and services described in the placement plan and the conduct of the child's former parent with whom the child has been placed. Such plan shall be incorporated into the order entered pursuant to subsection D.

F. Following the placement of a child with his former parent following entry of an order pursuant to

59 subsection D, the director of the local department of social services shall cause the child to be visited by an
60 agent of such local board or local department at least three times within the six-month period immediately
61 following placement of the child in order to evaluate the suitability of the placement and the progress of the
62 former parent toward remedying the factors and conditions that led to or required continuation of the child's
63 foster care placement; however, no less than 90 days shall elapse between the first visit and the last visit. At
64 least one of the visits shall be conducted in the home of the former parent whose rights are the subject of the
65 petition in the presence of the former parent.

66 G. Upon completion of the visitation required pursuant to subsection F, the director of the local
67 department of social services shall make a written report to the court, in such form as the Commissioner of
68 Social Services may prescribe, describing (i) findings made as a result of the visits required pursuant to
69 subsection F and (ii) findings and information related to the former parent's compliance with requirements of
70 the placement plan developed pursuant to subsection E.

71 H. Upon receipt of the report required pursuant to subsection G, the court shall set a hearing on the
72 petition for restoration of parental rights and serve notice of the hearing, along with a copy of the report
73 required pursuant to subsection G, on the former parent of the child whose rights are the subject of the
74 petition, any other parent who retains legal rights to the child, the child's court-appointed special advocate, if
75 one has been appointed, and the child's guardian ad litem.

76 I. If, upon consideration of the report required pursuant to subsection G, the court finds by clear and
77 convincing evidence that the restoration of parental rights is in the child's best interest, the court shall enter an
78 order restoring the parental rights of the child's parent. In determining whether restoration is in the best
79 interest of the child, the court shall consider the following:

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

82 2. The age and maturity of the child and whether the child consents to the reinstatement of the former
83 parent's rights, if the child is 14 years of age or older, or the child's preference with regard to the
84 reinstatement of the former parent's rights, if the child is younger than 14 years of age;

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

86 4. Whether the restoration of parental rights will affect benefits available to the child; and

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

88 J. The court may revoke its order permitting the placement of a child with his former parent pursuant to
89 subsection D at any time prior to entry of an order restoring parental rights to the former parent of the child,
90 for good cause shown, on its own motion or on the motion of the child's guardian ad litem or the local
91 department.

92 K. A petition for restoration of parental rights filed while the child is younger than 18 years of age shall
93 not become invalid because the child reaches 18 years of age prior to the entry of an order of restoration of
94 parental rights. Any order restoring parental rights to a parent of a child pursuant to this section entered after
95 a child reaches 18 years of age, where the petition was filed prior to the child turning 18 years of age, shall
96 have the same effect as if the child was under 18 years of age at the time the order was entered by the court.

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