

VIRGINIA ACTS OF ASSEMBLY -- 2002 SESSION

CHAPTER 512

An Act to amend and reenact §§ 16.1-281, 16.1-282 and 16.1-282.1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-282.2, relating to the permanency planning process for children in foster care.

[S 538]

Approved April 5, 2002

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-281, 16.1-282 and 16.1-282.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 16.1-282.2 as follows:

§ 16.1-281. Foster care plan.

A. In any case in which (i) a local board of social services or a public agency designated by the community policy and management team places a child through an agreement with the parents or guardians where legal custody remains with the parents or guardian, or (ii) legal custody of a child is given to a local board of ~~public welfare~~ or social services or a child welfare agency, the department of ~~public welfare~~ or social services, the public agency designated or child welfare agency or the family assessment and planning team established pursuant to § 2.2-5207 shall prepare a foster care plan for such child, as described hereinafter. The individual family service plan developed by the family assessment and planning team pursuant to § 2.2-5208 may be accepted by the court as the foster care plan if it meets the requirements of this section. The representatives of such department, agency, or team shall consult with the child's parents, except when parental rights have been terminated, and any other person or persons standing in loco parentis at the time the board or child welfare agency obtained custody or the board or the public agency placed the child, concerning the matters which should be included in such plan. The department, public agency, child welfare agency or team shall file the plan with the juvenile and domestic relations district court within sixty days following the transfer of custody or the board's or public agency's placement of the child unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional sixty days. However, a foster care plan shall be filed in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. A foster care plan need not be prepared if the child is returned to his prior family or placed in an adoptive home within sixty days following transfer of custody to the board or agency or the board's or public agency's placement of the child.

B. The foster care plan shall describe (i) the programs, care, services and other support which will be offered to the child and his parents and other prior custodians; (ii) the participation and conduct which will be sought from the child's parents and other prior custodians; (iii) the visitation and other contacts which will be permitted between the child and his parents and other prior custodians; (iv) the nature of the placement or placements which will be provided for the child; and (v) in writing and where appropriate for children age sixteen or over, the programs and services which will help the child prepare for the transition from foster care to independent living. If consistent with the child's health and safety, the plan shall be designed to support reasonable efforts which lead to the return of the child to his parents or other prior custodians within the shortest practicable time which shall be specified in the plan. The child's health and safety shall be the paramount concern of the court and the agency throughout the placement, case planning, service provision and review process.

If the department, child welfare agency or team ~~determines~~ *concludes* that it is not reasonably likely that the child can be returned to his prior family within a practicable time, consistent with the best interests of the child, in a separate section of the plan the department, child welfare agency or team shall (i) include a full description of the reasons for this conclusion; (ii) ~~determine~~ *provide information* on the opportunities for placing the child with a relative or in an adoptive home; (iii) design the plan to lead to the child's successful placement with a relative if a subsequent transfer of custody to the relative is planned, or in an adoptive home within the shortest practicable time, and if neither of such placements is feasible; (iv) explain why *permanent foster care*, independent living for a child sixteen years of age or older, ~~permanent foster care~~ or continued foster care is the plan for the child. "Independent living" includes the services and programs needed to assist the child in making a transition from foster care to self-sufficiency. The department or agency may include with such proposed plan a ~~proper pleading~~ *petition* seeking the termination of residual parental rights pursuant to § 16.1-283.

The local board or other child welfare agency having custody of the child shall not be required by the court to make reasonable efforts to reunite the child with a parent if the court finds that (i) the residual parental rights of the parent regarding a sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of an offense under the laws of this Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction which

constitutes murder or voluntary manslaughter, or a felony attempt, conspiracy or solicitation to commit any such offense, if the victim of the offense was a child of the parent, a child with whom the parent resided at the time such offense occurred or the other parent of the child; or (iii) the parent has been convicted of an offense under the laws of this Commonwealth or a substantially similar law of any other state, the United States or any foreign jurisdiction which constitutes felony assault resulting in serious bodily injury or felony bodily wounding resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the parent or a child with whom the parent resided at the time of such offense. As used in this section "serious bodily injury" means bodily injury which involves substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty. Within thirty days of making a determination that reasonable efforts to reunite the child with the parents are not required, the court shall hold a permanency planning hearing pursuant to § 16.1-282.1.

C. A copy of the entire foster care plan shall be sent by the court to the child, if he is twelve years of age or older; the guardian ad litem for the child, the attorney for the child's parents or for any other person standing in loco parentis at the time the board or child welfare agency obtained custody or the board or public agency placed the child, to the parents or other person standing in loco parentis, and such other persons as appear to the court to have a proper interest in the plan. However, a copy of the plan shall not be sent to a parent whose parental rights regarding the child have been terminated. A copy of the plan, excluding the section of the plan describing the reasons why the child cannot be returned home and the alternative chosen, shall be sent by the court to the foster parents. A hearing shall be held for the purpose of reviewing and approving the foster care plan. The hearing shall be held within seventy-five days of (i) the child's initial foster care placement, if the child was placed through an agreement between the parents or guardians and the local department of social services, other public agency or a child welfare agency; (ii) the original preliminary removal order hearing, if the child was placed in foster care pursuant to § 16.1-252; (iii) the hearing on the petition for relief of custody, if the child was placed in foster care pursuant to § 16.1-277.02; or (iv) the dispositional hearing at which the child was placed in foster care and an order was entered pursuant to §§ 16.1-278.2, 16.1-278.3, 16.1-278.4, 16.1-278.5, 16.1-278.6 or § 16.1-278.8. However, the hearing shall be held in accordance with the provisions of § 16.1-277.01 with a petition for approval of an entrustment agreement. If the judge makes any revision in any part of the foster care plan, a copy of the changes shall be sent by the court to all persons who received a copy of the original of that part of the plan.

C1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms or conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

C2. *Any order entered at the conclusion of the hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of sixteen years, pursuant to subdivision A v of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.*

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his parents or other persons standing in loco parentis at the time the board or agency obtained custody or the board or public agency placed the child.

E. ~~Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of public welfare or social services or placed by local boards of social services or the public agency designated by the community policy and management team on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.~~

F. At the conclusion of the hearing at which the *initial* foster care plan is reviewed, the court shall schedule a foster care review hearing to be held within six months in accordance with § 16.1-282. However, *if an order is entered pursuant to subsection C2, the court shall schedule a foster care review hearing to be held within twelve months of the entry of such order in accordance with the provisions of § 16.1-282.2.* Parties who are present at the hearing ~~pursuant to this section~~ at which the initial foster care plan is reviewed shall be given notice of the date set for the foster care review hearing and parties who are not present shall be summoned as provided in § 16.1-263.

F. Nothing in this section shall limit the authority of the juvenile judge or the staff of the juvenile court, upon order of the judge, to review the status of children in the custody of local boards of social services or placed by local boards of social services or the public agency designated by the community policy and management team on its own motion. The court shall appoint an attorney to act as guardian ad litem to represent the child any time a hearing is held to review the foster care plan filed for the child or to review the child's status in foster care.

§ 16.1-282. Foster care review.

*A. ~~This section shall apply to all children~~ In the case of a child who was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a foster care review hearing shall be held within six months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child: (a) was placed through an agreement between the parents or guardians and the local board of social services or a public agency designated by the community policy and management team where legal custody remains with the parents or guardians *and such agreement has not been dissolved by court order*; or (b) is under the legal custody of a local board of social services or a child welfare agency (i) ~~who were the subjects of a foster care plan filed with the court pursuant to § 16.1-281~~ and (ii) ~~who have not been returned to their prior family or placed in an adoptive home~~ has not had a petition to terminate parental rights granted, filed or ordered to be filed on the child's behalf; has not been placed in permanent foster care; or is not receiving services to achieve independent living status.*

Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's or public agency's placement of the child or the board's or child welfare agency's assumption of legal custody, may file with the court the petition for a foster care review hearing hereinafter described at any time after the initial foster care placement of the child. However, the board, public agency or child welfare agency shall file the petition within five months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281.

B. ~~Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's or child welfare agency's assumption of legal custody or the board's or public agency's placement of the child, may file with the court the petition hereinafter described for each such child at any time after the initial foster care placement of the child. However, the board or child welfare agency having legal custody or the board or public agency placing the child shall file the petition within five months of the court's approval of (i) the entrustment agreement pursuant to § 16.1-277.01, which placed the child in foster care or (ii) the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281.~~

The petition shall:

1. Be filed in the court in which the foster care plan for the child was reviewed and approved. Upon the order of such court, however, the petition may be filed in the court of the county or city in which the board or child welfare agency having legal custody or having placed the child has its principal office or where the child resides;

2. State, if such is reasonably obtainable, the current address of the child's parents and, if the child was in the custody of a person or persons standing in loco parentis at the time the board or child welfare agency obtained legal custody or the board or public agency placed the child, of such person or persons;

3. Describe the placement or placements provided for the child while in foster care and the services or programs offered to the child and his parents and, if applicable, the persons previously standing in loco parentis;

4. Describe the nature and frequency of the contacts between the child and his parents and, if applicable, the persons previously standing in loco parentis;

5. Set forth in detail the manner in which the foster care plan previously filed with the court was or was not complied with and the extent to which the goals thereof have been met; and

6. Set forth the disposition sought and the grounds therefor; however, if a continuation of foster care is recommended, a foster care plan for such period of continued foster care shall also be included and shall address (i) the role the current foster parents or other care providers will play in the future planning for the child and (ii) in the case of a child who has attained age sixteen, the services and programs needed to assist the child to make a transition from foster care to independent living.

C. Upon receipt of the petition filed by the board, public agency, child welfare agency, or any interested party as provided in subsection B of this section, the court shall schedule a hearing to be held within thirty days if a hearing was not previously scheduled pursuant to subsection F of § 16.1-281. A review hearing shall be held within six months of the dispositional hearing at which the foster care plan was reviewed. The court shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:

1. The child, if he is twelve years of age or older;
2. The attorney-at-law representing the child as guardian ad litem;
3. The child's parents and, if the child was in the custody of a person standing in loco parentis at the time the department obtained custody, such person or persons. No such notification shall be required,

however, if the judge certifies on the record that the identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit. If the parent or guardian of the child did not appear at the dispositional hearing and was not noticed to return for the foster care review hearing in accordance with subsection F of § 16.1-281, the parent or guardian shall be summoned to appear at the foster care review hearing in accordance with § 16.1-263. The review hearing shall be held pursuant to this section although a parent or guardian fails to appear and is not represented by counsel, provided personal or substituted service was made on the parent or guardian, or the court determines that such person cannot be found, after reasonable effort, or in the case of a person who is without the Commonwealth, the person cannot be found or his post office address cannot be ascertained after reasonable effort;

4. The foster parent or foster parents or other care providers of the child;

5. The petitioning board, public agency or child welfare agency; and

6. Such other persons as the court, in its discretion, may direct. The local board of social services or other child welfare agency shall identify for the court such other persons as have a legitimate interest in the hearing, including, but not limited to, preadoptive parents for a child in foster care.

D. At the conclusion of the hearing, the court shall, upon the proof adduced in accordance with the best interests of the child and subject to the provisions of subsection D1 of this section, enter any appropriate order of disposition consistent with the dispositional alternatives available to the court at the time of the original hearing. The court order shall state whether reasonable efforts, if applicable, have been made to reunite the child with his parents, guardian or other person standing in loco parentis to the child. *Any order entered at the conclusion of this hearing that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of sixteen years, pursuant to subdivision A v of § 16.1-282.1 shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the foster care plan and to complete the steps necessary to finalize the permanent placement of the child.*

D1. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide for, as appropriate, any terms and conditions which would promote the child's interest and welfare; ongoing provision of social services to the child and the child's custodian; and court review of the child's placement.

E. The court shall possess continuing jurisdiction over cases reviewed under this section for so long as a child remains in a foster care placement or, when a child is returned to his prior family subject to conditions imposed by the court, for so long as such conditions are effective. After the hearing required pursuant to subsection C hereof, the court shall schedule a permanency planning hearing on the case to be held five months thereafter in accordance with § 16.1-282.1, ~~except in the case of a child placed in permanent foster care after a hearing held pursuant to § 63.1-206.1,~~ or within thirty days upon the petition of any party entitled to notice in proceedings under this section when the judge determines there is good cause shown for such a hearing. *However, in the case of a child who is the subject of an order that has the effect of achieving a permanent goal for the child by terminating residual parental rights pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283; by placing the child in permanent foster care pursuant to subdivision A iv of § 16.1-282.1; or by directing the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of sixteen years, pursuant to subdivision A v of § 16.1-282.1, a permanency planning hearing within five months shall not be required and the court shall schedule a foster care review hearing to be held within twelve months of the entry of such order in accordance with the provisions of § 16.1-282.2.*

§ 16.1-282.1. Permanency planning hearing for children in foster care.

A. In the case of a child who ~~has not been returned to his prior family or placed in an adoptive home,~~ *was the subject of a foster care plan filed with the court pursuant to § 16.1-281, a permanency planning hearing shall be held within eleven months of the dispositional hearing at which the foster care plan pursuant to § 16.1-281 was reviewed if the child (a) was placed through an agreement between the parents or guardians and the local board of social services or a public agency designated by the community policy and management team where legal custody remains with the parents or guardians and such agreement has not been dissolved by court order; or (b) is under the legal custody of a local board of social services or a child welfare agency and has not had a petition to terminate parental rights filed on the child's behalf, has not been placed in permanent foster care, or is not receiving services to achieve independent living status or is not in permanent foster care within ten*

months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The board, public agency or child welfare agency shall file a petition for a permanency planning hearing within ten months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The purpose of this hearing is to establish a permanent goal for the child and either to achieve the permanent goal or to defer such action through the approval of an interim plan for the child.

To achieve the permanent goal, the petition for a permanency planning hearing shall seek to (i) transfer the custody of the child to his prior family, or dissolve the board's or public agency's placement agreement and return the child to his prior family; (ii) transfer custody of the child to a relative other than the child's prior family, subject to the provisions of subsection A1 of this section, or dissolve the board's or public agency's placement agreement and return the child to his prior family; (iii) terminate residual parental rights pursuant to § 16.1-277.01 or § 16.1-283; (iv) direct the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of sixteen years place the child in permanent foster care pursuant to § 63.1-206.1; (v) place the child in permanent foster care direct the board or agency to provide the child with services to achieve independent living status, if the child has attained the age of sixteen years; or (vi) place the child in another planned permanent living arrangement in accordance with the provisions of subsection A2 of this section;

For approval of an interim plan, the petition for a permanency planning hearing shall seek to (vii) continue custody with the board or agency, or continue placement with the board or public agency through a parental agreement; or (viii) transfer custody to the board or child welfare agency from the parents or guardian of a child who has been in foster care through an agreement where the parents or guardian retains custody.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within thirty days. The permanency planning hearing shall be held within eleven months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subsection B of § 16.1-282 shall apply to this petition. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to the scheduling and notice of proceedings under this section.

A1. The following requirements shall apply to the transfer of custody of the child to a relative other than the child's prior family in accordance with the provisions of (ii) of subsection A of this section. Any order transferring custody of the child to a relative other than the child's prior family shall be entered only upon a finding, based upon a preponderance of the evidence, that the relative is one who, after an investigation as directed by the court, (i) is found by the court to be willing and qualified to receive and care for the child; (ii) is willing to have a positive, continuous relationship with the child; (iii) is committed to providing a permanent, suitable home for the child; and (iv) is willing and has the ability to protect the child from abuse and neglect; and the order shall so state. The court's order transferring custody to a relative should further provide, as appropriate, for any terms or conditions which would promote the child's interest and welfare.

A2. The following requirements shall apply to the selection and approval of placement in another planned permanent living arrangement as the permanent goal for the child in accordance with clause (vi) of subsection A of this section.

1. The board, public agency or child welfare agency shall petition for alternative (vi) of subsection A only if the child has a severe and chronic emotional, physical or neurological disabling condition for which the child requires long-term residential treatment; and the board, public agency or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interests of the child. In a foster care plan filed with the petition pursuant to this section, the board or agency shall document the following: (i) the investigation conducted of the placement alternatives listed in clauses (i) through (v) of subsection A and why each of these is not currently in the best interest of the child; (ii) at least one compelling reason why none of the alternatives listed in clauses (i) through (v) is achievable for the child at the time placement in another planned permanent living arrangement is selected as the permanent goal for the child; (iii) the identity of the long-term residential treatment service provider; (iv) the nature of the child's disability; (v) the anticipated length of time required for the child's treatment; and (vi) the status of the child's eligibility for admission and long-term treatment.

2. Before approving alternative (vi) of subsection A of this section as the plan for the child, the court shall find (i) that the child has a severe and chronic emotional, physical or neurological disabling condition; (ii) that the child requires long-term residential treatment for the disabling condition; and (iii) that none of the alternatives listed in clauses (i) through (v) of subsection A is achievable for the child at the time placement in another planned permanent living arrangement is approved as the permanent goal for the child. If the board or agency petitions for alternative (vi), alternative (vi) may be approved by the court for a period of six months at a time.

3. At the conclusion of the permanency planning hearing, if alternative (vi) of subsection A of this section is the permanent plan, the court shall schedule a hearing to be held within six months to review

the child's placement in another planned permanent living arrangement in accordance with subdivision 4 of subsection A2. All parties present at the hearing at which clause (vi) of subsection A is approved as the permanent plan for the child shall be given notice of the date scheduled for the foster care review hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection A2 shall govern the scheduling and notice for such hearings.

4. The court shall review a foster care plan for any child who is placed in another planned permanent living arrangement every six months from the date of the permanency planning hearing held pursuant to this subsection, so long as the child remains in the legal custody of the board, public agency or child welfare agency. The board, public agency or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282 and shall, in addition, include in the petition the information required by subdivision 1 of subsection A2 of this section. The petition for foster care review shall be filed no later than thirty days prior to the hearing scheduled in accordance with subdivision 3 of subsection A2. At the conclusion of the foster care review hearing, if alternative (vi) of subsection A of this section remains the permanent plan, the court shall enter an order that states whether reasonable efforts have been made to place the child in a timely manner in accordance with the permanency plan and to monitor the child's status in another planned permanent living arrangement.

However, if at any time during the six-month approval periods permitted by this subsection, a determination is made by treatment providers that the child's need for long-term residential treatment for the child's disabling condition is eliminated, the board or agency shall immediately begin to plan for post-discharge services and shall, within thirty days of making such a determination, file a petition for a permanency planning hearing pursuant to subsection A of this section. Upon receipt of the petition, the court shall schedule a permanency planning hearing to be held within thirty days. The provisions of subdivisions 1 through 6 of subsection B of § 16.1-282 shall apply to the filing of such petitions *this petition*. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to proceedings under this section.

B. The following requirements shall apply to the selection and approval of an interim plan for the child in accordance with subsection A.

1. The board, public agency or child welfare agency shall petition for ~~alternative (vii) or (viii) of subsection A of this section~~ approval of an interim plan only if the board, public agency or child welfare agency has thoroughly investigated the feasibility of the alternatives listed in clauses (i) through (v) of subsection A and determined that none of those alternatives is in the best interest of the child. If the board or agency petitions for ~~alternative (vii) or (viii); alternative (vii) or (viii) approval of an interim plan, such plan~~ may be approved by the court for a maximum period of six months. The board or agency shall also file a foster care plan ~~which that~~ (i) ~~changes the identifies a permanent plan goal for the child to that corresponds with one of the placement alternatives specified in clauses (i) through (v) of subsection A;~~ (ii) includes provisions for accomplishing the new permanent plan goal within six months; and (iii) summarizes the investigation conducted of the ~~placement~~ alternatives listed in clauses (i) through (v) of subsection A and why *achieving* each of these is not in the best interest of the child *at this time*.

Upon receipt of the petition, if a permanency planning hearing has not already been scheduled, the court shall schedule such a hearing to be held within thirty days. The permanency planning hearing shall be held within eleven months of the dispositional hearing at which the foster care plan was reviewed pursuant to § 16.1-281. The provisions of subdivisions 1 through 6 of subsection B of § 16.1-282 shall apply to the filing of such petitions. The procedures of subsection C of § 16.1-282 and the provisions of subsection E of § 16.1-282 shall apply to proceedings under this section.

C 2. Before approving alternative (vii) or (viii) of subsection A as the an interim plan for the child, the court shall find:

1 a. When returning home remains the plan for the child, that the parent has made marked progress toward reunification with the child, the parent has maintained a close and positive relationship with the child, and the child is likely to return home within the near future, although it is premature to set an exact date for return at the time of this hearing; or

2 b. When returning home is not the plan for the child, that marked progress is being made to achieve the permanent goal identified by the board, public agency or child welfare agency and that it is premature to set an exact date for accomplishing the goal at the time of this hearing.

3. *Upon approval of an interim plan, the court shall schedule a hearing to be held within six months to determine that the permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv) or (v) of subsection A. All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, subsection A shall govern the scheduling and notice for such hearings.*

C. At the conclusion of the permanency planning hearing, if alternative (vii) or (viii) is the interim plan held pursuant to this section, whether action is taken or deferred to achieve the permanent goal for the child, the court shall enter an order that states whether reasonable efforts have been made to reunite the child with his or her the child's prior family, if returning home remains the plan is the permanent

goal for the child; or whether reasonable efforts have been made to achieve the permanent goal identified by the board ~~when or agency, if the goal is other than returning the child home is not the plan~~ for the child. The court shall schedule a hearing to be held within six months to determine that the new permanent goal is accomplished and to enter an order consistent with alternative (i), (ii), (iii), (iv) or (v). All parties present at the initial permanency planning hearing shall be given notice of the date scheduled for the second permanency planning hearing. Parties not present shall be summoned to appear as provided in § 16.1-263. Otherwise, this subsection shall govern the scheduling and notice for such hearings.

D. The court shall review a foster care plan for (i) any child who is receiving services to achieve independent living status but who remains in the custody of the board, public agency or child welfare agency and (ii) any child for whom a termination of parental rights petition has been filed or for whom termination of parental rights has been ordered, but for whom a final order of adoption has not been entered, every twelve months from the date of the permanency planning hearing held pursuant to this section, so long as the child remains in the custody of the board, public agency or child welfare agency. The board, public agency or child welfare agency shall file such petitions for review pursuant to the provisions of § 16.1-282. The board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3, or § 16.1-283, if applicable, with the petition for review required pursuant to this section. The court order entered at the conclusion of the hearing held on such petition for review shall state whether reasonable efforts were made to place the child in a timely manner in accordance with the permanency plan and to complete the steps necessary to finalize the permanent placement of the child. In making this determination, the court shall give consideration to whether the board or agency has placed the child in a timely manner in accordance with the foster care plan and completed the steps necessary to finalize the permanent placement of the child.

§ 16.1-282.2. Annual foster care review.

A. The court shall review a foster care plan annually for any child who remains in the legal custody of a local board of social services or a child welfare agency and (i) on whose behalf a petition to terminate parental rights has been granted, filed or ordered to be filed, (ii) who is placed in permanent foster care, or (iii) who is receiving services to achieve independent living status. The foster care review hearing shall be scheduled at the conclusion of a hearing held pursuant to §§ 16.1-281, 16.1-282 or § 16.1-282.1 at which the order is entered: terminating parental rights, directing the filing of a petition for termination of parental rights by the board or agency, placing the child in permanent foster care, or directing the board or agency to provide the child with services to achieve independent living status. The foster care review hearing shall be held within twelve months of the date of such order, so long as the child remains in the custody of the board or agency.

The board or agency shall file the petition for a foster care review hearing, and the court shall provide notice of the foster care review hearing in accordance with the provisions of § 16.1-282. The board or agency shall file a written Adoption Progress Report with the juvenile court pursuant to §§ 16.1-277.01, 16.1-277.02, 16.1-278.3 or § 16.1-283, if applicable, with the petition required by this section. The court order entered at the conclusion of the hearing held on the petition shall state whether reasonable efforts have been made to place the child in a timely manner in accordance with the approved foster care plan that established a permanent goal for the child and to complete the steps necessary to finalize the permanent placement of the child.

B. At the foster care review hearing in the case of a child who is placed in permanent foster care, the court shall give consideration to the appropriateness of the services being provided to the child and permanent foster parents, to any change in circumstances since the entry of the order placing the child in permanent foster care, and to such other factors as the court deems proper.