

VIRGINIA ACTS OF ASSEMBLY -- 2009 SESSION

CHAPTER 119

An Act to amend the Code of Virginia by adding a section numbered 22.1-213.1, relating to the definition of a parent.

[H 2537]

Approved February 25, 2009

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-213.1 as follows:

§ 22.1-213.1. Definition of "parent."

A. "Parent," for purposes of this article and regulations promulgated thereto, means:

1. A biological or adoptive parent of a child;

2. A foster parent, even if the biological or adoptive parent's rights have not been terminated, but subject to subsection B;

3. A guardian generally authorized to act as the child's parent, or authorized to make educational decisions for the child (but not the Commonwealth if the child is a ward of the Commonwealth);

4. An individual acting in the place of a biological or adoptive parent (including grandparent, stepparent, or other relative) with whom the child lives, or an individual who is legally responsible for the child's welfare; or

5. If no party qualified under subdivisions 1 through 4 can be identified, or those parties are unwilling to act as parent, a surrogate parent who has been appointed in accordance with 8 VAC 20-80-80.

B. The biological or adoptive parent, when attempting to act as the parent pursuant to this section and when more than one party is qualified under subsection A to act as a parent, must be presumed to be the parent for purposes of this section unless the biological or adoptive parent has had their residual parental rights and responsibilities terminated pursuant to § 16.1-277.01, 16.1-277.02, or 16.1-283 or a comparable law in another state.

C. The local school division shall provide written notice to the biological or adoptive parents at their last known address that a foster parent is acting as the parent pursuant to this section, and the local school division is entitled to rely upon the actions of the foster parent pursuant to this section until such time that the biological or adoptive parent attempts to act as the parent.

D. If a judicial decree or order identifies a specific person or persons among subdivisions A 1 through A 5 to act as the "parent" of a child or to make educational decisions on behalf of a child, then such person or persons shall be determined to be the "parent" for purposes of the special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child.

E. The Board of Education shall revise the regulations governing the provision of special education services in accordance with this section.