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**HOUSE BILL NO. 2537**

Offered January 19, 2009

A *BILL to amend the Code of Virginia by adding a section numbered 22.1-213.1, relating to the definition of a parent.*

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Patron—Toscano

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Referred to Committee on Education**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" for purposes of special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child.*

A. *"Parent," for purposes of special education identification, evaluation, and placement of a child and the provision of a free appropriate public education to a child, 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 1-4 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 article 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:*

1. *The biological or adoptive parent does not have legal authority to make educational decisions for the child under § 16.1-283, 16.1-277.01, or 16.1-277.02 or a comparable law in another state; or*

2. *Such a presumption would result in a delay of the special education identification, evaluation, or educational placement of a child or the provision of a free appropriate public education to the child.*

C. *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.*

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

INTRODUCED

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