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HOUSE BILL NO. 450

Offered January 11, 2012

Prefiled January 10, 2012

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

Patron—Toscano

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That the Code of Virginia is amended by adding a section numbered 16.1-283.2 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 has 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 it was not sustained; and*
5. *The child 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 a petition involving a child younger than 14 years of age or a petition filed before the expiration of the two-year period if it finds that accepting such a petition is in the best interest of the child.*

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, the child's guardian ad litem, and the local board of social services.*

D. *The court shall enter an order restoring the parental rights of the child's parent if it finds by clear and convincing evidence that (i) the child has not achieved or sustained his permanency goal and is not likely to achieve his permanency goal within the next six months from the date of the hearing and (ii) the restoration of parental rights is in the child's best interest. In determining whether restoration is in the best interest of the child the court shall consider the following:*

1. *Whether the parent whose rights are to be reinstated agrees to the reinstatement and has substantially remedied the conditions that led to or required continuation of the child's foster care placement;*
2. *The age and maturity of the child and the preference expressed by the child;*
3. *Whether the restoration of parental rights will present a risk to the child's life, health, or development;*
4. *Other material changes in circumstances, if any, that warrant the granting of the petition; and*
5. *Whether the restoration of parental rights will affect benefits available to the child consistent with the best interest of the child.*

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

F. *If the court enters an order restoring the parental rights of the child's parent pursuant to subsection D, the court may place the child in the custody of the parent whose rights have been restored if such placement is in accordance with the terms of the permanency plan incorporated into the order pursuant to subsection E and if the court finds, based upon a preponderance of the evidence, that the parent (i) is 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.*

G. *The granting of a petition under this section does not vacate the findings of fact or conclusions of*

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59 *law contained in the original order that terminated the parental rights of the child's parent.*