

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 223

*An Act to amend and reenact § 16.1-282 of the Code of Virginia, relating to foster care review.*

[S 194]

Approved April 4, 1994

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-282 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-282. Foster care review.

A. This section shall apply to all children under the legal custody of a local board of public welfare or 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 within ~~sixteen~~ *ten* months following the initial foster care placement of the child.

B. Any interested party, including the parent, guardian or person who stood in loco parentis prior to the board's or agency's assumption of legal custody, may file with the court the petition hereinafter described for each such child within ~~sixteen~~ *ten* months after the initial foster care placement of the child. However, if a petition is not filed by such interested party, then the board or agency having legal custody shall file the petition within ~~sixteen~~ *ten* months after the initial foster care placement.

The petition shall:

1. Be filed in the court in which the foster care plan was filed for the child. 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 agency having legal custody has its principal office or where the child resides;

2. Include a copy of the foster care plan previously filed for such child;

3. 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 agency obtained legal custody, of such person or persons;

4. 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;

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

6. 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

7. 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 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, agency, or any interested party as provided in subsection B of this section, the court shall schedule a hearing within sixty days and 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;

4. The foster parent or foster parents of the child;

5. The petitioning board or agency; and

6. Such other persons as the court, in its discretion, may direct.

D. At the conclusion of the hearing, the court shall, upon the proof adduced and in accordance with the best interests of the child, 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.

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 hearing on the case annually thereafter, 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.

F. In the case of a child who has not been returned to his prior family or placed in an adoptive home or placed in permanent foster care within twenty-four months following the initial foster care placement of the child, the board or agency shall file a petition to (i) transfer the custody of the child to his prior family, (ii) transfer custody of the child to a relative other than the child's prior family, (iii) place the child in permanent foster care, (iv) terminate residual parental rights pursuant to § 16.1-283, or (v) continue custody with the board or agency. The board or agency shall petition for continued custody of the child only if the board or agency has thoroughly investigated the feasibility of the alternatives listed in (i) through (iv) of this subsection and determined that none of those alternatives is in the best interest of the child. A foster care plan shall be included and shall address the board's or agency's investigation of alternatives (i) through (iv) and why they are not in the best interest of the child. Any petition filed pursuant to this subsection shall comply with subdivisions 1 through 7 of subsection B and the procedures set out in subsection C and the continuing jurisdiction provisions of subsection E shall apply.