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## HOUSE BILL NO. 781

Offered January 22, 1996

A *BILL to amend and reenact § 16.1-283 of the Code of Virginia, relating to termination of the parent-child relationship.*

Patron—Dillard

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 16.1-283 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-283. Termination of residual parental rights.

A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding if the petition specifically requests such relief. No petition seeking termination of residual parental rights shall be accepted by the court prior to the filing of a foster care plan, pursuant to § 16.1-281, which documents termination of residual parental rights as being in the best interests of the child. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. Any order terminating residual parental rights shall be accompanied by an order continuing or granting custody to a local board of public welfare or social services, to a licensed child-placing agency or the granting of custody or guardianship to a relative or other interested individual. However, in such cases the court shall give a consideration to granting custody to relatives of the child, including grandparents. An order continuing or granting custody to a local board of public welfare or social services or to a licensed child-placing agency shall indicate whether that board or agency shall have the authority to place the child for adoption and consent thereto. The summons shall be served upon the parent or parents and the other parties specified in § 16.1-263. Written notice of the hearing shall also be provided to the foster parents of the child if they have had physical custody of the child for more than twelve months informing them that they may appear as witnesses at the hearing to give testimony and, within the discretion of the court, otherwise participate in the proceeding. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-264.

B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused and placed in foster care as a result of (i) court commitment, (ii) an entrustment agreement entered into by the parent or parents or (iii) other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The neglect or abuse suffered by such child presented a serious and substantial threat to his life, health or development; and

2. It is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his parent or parents within a reasonable period of time.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subdivision B 2 hereof:

a. The parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his age and stage of development;

b. The parent or parents have habitually abused or are addicted to intoxicating liquors, narcotics or other dangerous drugs to the extent that proper parental ability has been seriously impaired and the parent, without good cause, has not responded to or followed through with recommended and available treatment which could have improved the capacity for adequate parental functioning; or

c. The parent or parents, without good cause, have not responded to or followed through with appropriate, available and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child.

C. The residual parental rights of a parent or parents of a child placed in foster care as a result of court commitment, an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon clear and convincing evidence, that it is in the best interests of the child and that:

1. The parent or parents have, without good cause, failed to maintain contact with and to provide or substantially plan for the future of the child for a period of twelve months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or

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60 other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child  
61 relationship; or

62 2. The parent or parents, without good cause, have been unwilling or unable within a reasonable  
63 period not to exceed twelve months to remedy substantially the conditions which led to the child's foster  
64 care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health  
65 or other rehabilitative agencies to such end.

66 3. Within six months after termination social service agencies will submit a written plan for finding a  
67 permanent placement for the child.

68 Proof of any of the following shall constitute prima facie evidence of the conditions set forth in  
69 subdivisions C 1 or 2 hereof:

70 a. The parent or parents have failed, without good cause, to communicate on a continuing or planned  
71 basis with the child for a period of twelve months; or

72 b. The parent or parents, without good cause, have failed or have been unable to make reasonable  
73 progress towards the elimination of the conditions which led to the child's foster care placement in  
74 accordance with their obligations under and within the time limits or goals set forth in a foster care plan  
75 filed with the court or any other plan jointly designed and agreed to by the parent or parents and a  
76 social, medical, mental health or other rehabilitative agency.

77 D. The residual parental rights of a parent or parents of a child found by the court to be neglected or  
78 abused upon the ground of abandonment may be terminated if the court finds, based upon clear and  
79 convincing evidence, that it is in the best interests of the child and that:

80 1. The child was abandoned under such circumstances that either the identity or the whereabouts of  
81 the parent or parents cannot be determined; and

82 2. The child's parent or parents, guardian or relatives have not come forward to identify such child  
83 and claim a relationship to the child within six months following the issuance of an order by the court  
84 placing the child in foster care; and

85 3. Diligent efforts have been made to locate the child's parent or parents without avail.

86 E. *The parent and child relationship between a child and a man may be terminated if a subsequent*  
87 *genetic blood test affirms at least a ninety-eight percent probability that the man is not the biological*  
88 *father.*

89 F. Notwithstanding any other provisions of this section, residual parental rights shall not be  
90 terminated if it is established that the child, if he is fourteen years of age or older or otherwise of an  
91 age of discretion as determined by the court, objects to such termination.