

2022 Child Welfare & Family Law Priorities

Child welfare and family law issues can impact a child's entire life. Fortunately, there is broad bipartisan support for most initiatives impacting children and families in this realm.

Court oversight of foster care placements: Affirms that a court has the power to review foster care placement decisions if they appear to not be in a child's best interests (as in when a relative placement is rejected, or when an LDSS repeatedly moves a child's placement). *This would require the LDSS to provide better information to the court on how the placement aligns with a child's best interests up front; or develop a new placement if the court determines it's in the child's best interests to do so.*

Best interests of the child factors--Child welfare: Virginia law provides guidance to courts on what factors to consider when deciding between parents in custody and visitation cases. But the law does not provide guidance on what to consider when making decisions about placements when a child is in the custody of a Department of Social Services. *This legislation provides guidance to the court that directs the court's attention to factors to consider, while leaving the decision within the court's discretion.*

Relative Foster parents: Relatives of children in foster care often apply to become the child's foster parent, and are denied. Sometimes there are good reasons for this; other times the reason may be a preference to work with stranger foster families who are "easier" or a belief that "the apple doesn't fall far from the tree." *This legislation would provide a time-limited opportunity to relatives to appeal the denial of foster placement through the administrative appeals process.*

Improving outcomes for children in foster care: Studies in multiple states show that providing high-quality legal representation to parents means children spend less time in foster care, and either are reunited with parents, find a home with relatives, or find an adoptive family faster. Lengthy periods of time in foster care are harmful to children, and Virginia has one of the worst rates of aging out of foster care without a permanent family. Creating two pilot parent representation centers will increase access to justice for parents, improve outcomes for children in foster care, and save the Commonwealth money. *Federal matching funds will defray costs, and decreasing length of time children are in care will pay for itself.*

Allowing incarcerated parents to petition for review of child support: while a payor parent who loses income due to conviction of a crime is considered "voluntarily" under- or un-employed under federal law, losing income due to being incarcerated for a crime is no longer considered such by the federal government.

→ This makes sense, because the choice to commit a crime is in the hands of the payor parent; but the decision whether to incarcerate that person is not. Meanwhile, payors facing large arrearages often give up and never pay, which is harmful to children. *Providing a limited opportunity to payor parents to argue for a reduction in future child support payments (not arrearages) due to incarceration—not conviction—for a crime, makes sense, and will prevent Virginia from being financially impacted by the loss of federal funding for child support collection efforts.*

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