

JUDICIAL BENCH CARD: HB 667 (2026)

Physical custody petitions for undocumented youth 18 to 21 years old who have been abused, abandoned, or neglected

What this bill does:

This new law **expands the definition of child in §§ 16.1-228 and 63.2-100**. It adds the following definition of a “child,” “juvenile,” or “minor”:

[F]or purposes of subsection A2 of § 16.1-241, an unmarried noncitizen between the ages of 18 and 21 who has been abused, abandoned, or neglected and for whom physical custody is sought under subsection A2 of § 16.1-241.

This change mirrors the expansion of the definition of “child” for over-18 youth in the Fostering Futures program.

It also **adds subsection (A2) in § 16.1-241** which allows “an unmarried noncitizen between the ages of 18 and 21 who has been abused, abandoned, or neglected” to petition a JDR court “to be placed in the physical custody of a proposed custodian named in the petition.”

The nuts and bolts of the process are generally the same with only a few differences:

- **The 18-21 year-old is the petitioner:** The 18-21 year-old must petition the court for physical custody themselves and ask the court for the Special Immigrant Juvenile Status findings. If circumstances change, the 18-21 year-old may file a motion asking the court to terminate the custody arrangement.
- **The custodian:** The youth must also have a parent or other adult who can be the custodian willing to be included in the petition. The custodian must be willing and able to provide “physical care and supervision.” Code § 16.1-241(A2) (citing Va. Code § 20-146.1).
- **Physical custody:** The petition is for physical custody only, defined as “the physical care and supervision of a child.” Va. Code § 20-146.1. This could be providing housing, food, transportation to medical appointments, assistance applying for or communicating with schools, and/or other support.
- **Notice:** According to the new law, both (1) the petitioned-for custodian and (2) the person(s) who had legal custody before the child’s 18th birthday must be served notice.

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This new law does not change (A1) at all. The statute explains: “Such child may, concurrently with a petition pursuant to this subsection or at a later time, petition the court for findings consistent with the provisions of subsection A1.”

Custody and SIJS petitions for under-18 youth remain unchanged.

The changes only affect custody petitions filed for the first time after someone turns 18 in which the court has not previously taken jurisdiction. The custody process for under-18 youth (citizen or noncitizen) remains the same. As (A2) reads: “Nothing in this subsection shall be construed to apply to a child under 18 years of age.”

BEST-INTEREST CONSIDERATIONS FOR THIS AGE GROUP:**Noncitizen youth 18-21 years old are particularly vulnerable, especially when they have been abused, neglected, or abandoned. These youth:**

- Continue to feel the symptoms and heal from Adverse Childhood Experiences (ACEs).
- Are trying to navigate schools systems, health systems, consular services, and other aspects of society as they enter later adolescence.
- Are often learning English as a second or third language.
- Need support transitioning into adulthood and develop independent living skills.

When considering these petitions, judges should consider:

- The needs of older youth, including: financial support to provide for basic necessities, access to health insurance, a permanent address, transportation, stable role models, assistance navigating complex health and school systems, and emotional support as they continue to heal from ACEs.
- The impact of trauma on noncitizen youth who have been abused, abandoned, and neglected.
- The importance of a reliable caretaker and stable home environment.
- The youth’s emotional and intellectual development needs.
- The educational and career goals of the youth.

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- Beyhan Ertanir et al., *Crisis Migration Adverse Childhood Events: A New Category of Youth Adversity for Crisis Migrant Children and Adolescents*, 51 RSCH. CHILD & ADOLESCENT PSYCHOPATHOLOGY 1871 (2023), <https://doi.org/10.1007/s10802-022-01016-x> (describing ACEs faced by youth who have migrated to escape crises, disaster, and other dangerous conditions).
- Saskia R. Vos et al., *The Family Crisis Migration stress framework: A framework to understand the mental health effects of crisis migration on children and families caused by disasters*, 2021 NEW DIRECTIONS FOR CHILD & ADOLESCENT DEV. 41 (2021), <https://doi.org/10.1002/cad.20397>.

Particular challenges for undocumented youth 18-21 who have been abused, abandoned, or neglected:

- Daniel P. Chapman, Robert F. Anda, & Shanta R. Dube, *Adverse Childhood Events as Risk Factors for Negative Mental Health Outcomes*. 37 PEDIATRIC ANNALS 359 (2007), <https://doi.org/10.3928/00485713-20070501-07>.
- Hirokazu Yoshikawa, Carola Suarez-Orozco, & Robert G. Gonzales, *Unauthorized Status and Youth Development in the United States: Consensus Statement of the Society for Research on Adolescence*, 27 J. RSCH. ON ADOLESCENCE 4 (2017), <https://doi.org/10.1111/jora.12272>.
- Roberto G. Gonzalez, Carola Suarez-Orozco, & Maria Cecilia Dedios-Sanguineti, *No Place to Belong: Contextualizing Concepts of Mental Health Among Undocumented Immigrant youth in the United States*, 57 AM. BEHAV. SCI. 1174 (2013), <https://doi.org/10.1177/0002764213487349> (discussing the impacts of pre- and post-migration trauma and stigmatization on undocumented young adults).

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Protections needed for undocumented youth 18-21 who have been abused, abandoned, or neglected:

- Torin Herd et al., *Individual and Social Risk and Protective Factors as Predictors of Trajectories of Post-traumatic Stress Symptoms in Adolescents*, 51 RSCH. ON CHILD & ADOLESCENT PSYCHOPATHOLOGY 1739 (2023), <https://pmc.ncbi.nlm.nih.gov/articles/PMC10027627/> (study of a group of 14-19-year-old female youth who had been mistreated, finding among other things, that supportive social networks can enhance resiliency and protect from stress of adversity).
- Thomas M. Crea et al., *Unaccompanied immigrant children in long term foster care: identifying needs and best practices from a child welfare perspective*, 92 CHILD. & YOUTH SERVS. REV., 56 (2018) <https://doi.org/10.1016/j.childyouth.2017.12.017> (examining the unique needs of unaccompanied immigrant children in foster care).
- Yesenia L. Zetino, Betsy E. Galicia, & Amanda Venta, *Adverse Childhood Experiences, Resilience, and Emotional Problems in Latinx Immigrant Youth*, PSYCHIATRY RESEARCH, no. 293, Sep. 16, 2020, at 1-6, <https://doi.org/10.1016/j.psychres.2020.113450> (study of immigrant youth aged 15 to 25 finding a correlation between familism and positive adaptation in Latinx immigrant youth).
- Ana-Maria Vranceanu, Stevan E. Hobfoll, & Robert J. Johnson., *Child multi-type maltreatment and associated depression and PTSD symptoms: the role of social support and stress*, 31 CHILD ABUSE & NEGLECT 71 (2007), <https://doi.org/10.1016/j.chiabu.2006.04.010>.