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**HOUSE BILL NO. 765**  
Offered January 10, 2024  
Prefiled January 9, 2024

A *BILL to amend and reenact § 16.1-241 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-283.01, relating to termination of parental rights.*

Patron—Delaney

Referred to Committee on Civil

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

**1. That § 16.1-241 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-283.01 as follows:**

**§ 16.1-241. Jurisdiction; consent for abortion.**

The judges of the juvenile and domestic relations district court elected or appointed under this law shall be conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over all cases, matters and proceedings involving:

A. The custody, visitation, support, control or disposition of a child:

1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or divested;

2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or mental incapacity of his parents is without parental care and guardianship;

2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as having abused or neglected another child in the care of the parent or custodian;

3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided in § 16.1-244;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

5. Where the termination of residual parental rights and responsibilities is sought. In such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-244;

6. Who is charged with a traffic infraction as defined in § 46.2-100; ~~or~~

7. Who is alleged to have refused to take a blood test in violation of § 18.2-268.2; *or*

8. *Where the termination of parental rights is sought pursuant to § 16.1-283.01.*

In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as provided in § 16.1-269.6.

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control

59 or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal  
60 guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party  
61 with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents,  
62 step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a  
63 legitimate interest shall not include any person (i) whose parental rights have been terminated by court order,  
64 either voluntarily or involuntarily, (ii) whose interest in the child derives from or through a person whose  
65 parental rights have been terminated by court order, either voluntarily or involuntarily, including, but not  
66 limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child  
67 subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-  
68 1241, or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of §  
69 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, when the  
70 child who is the subject of the petition was conceived as a result of such violation. The authority of the  
71 juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where  
72 the child has previously been awarded to the custody of a local board of social services.

73 A1. Making specific findings of fact required by state or federal law to enable a child to apply for or  
74 receive a state or federal benefit. For the purposes of this subsection only, when the court has obtained  
75 jurisdiction over the case of any child, the court may continue to exercise its jurisdiction until such person  
76 reaches 21 years of age, for the purpose of entering findings of fact or amending past orders, to include  
77 findings of fact necessary for the person to petition the federal government for status as a special immigrant  
78 juvenile, as defined by 8 U.S.C. § 1101(a)(27)(J).

79 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the  
80 provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or  
81 judicial certification of eligibility for admission to a training center for persons with intellectual disability in  
82 accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary  
83 admission and certification of adults shall be concurrent with the general district court.

84 C. Except as provided in subsections D and H, judicial consent to such activities as may require parental  
85 consent may be given for a child who has been separated from his parents, guardian, legal custodian or other  
86 person standing in loco parentis and is in the custody of the court when such consent is required by law.

87 D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has  
88 ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco  
89 parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco  
90 parentis (i) is not a resident of the Commonwealth, (ii) has his whereabouts unknown, (iii) cannot be  
91 consulted with promptness, reasonable under the circumstances, or (iv) fails to give such consent or provide  
92 such treatment when requested by the judge to do so.

93 E. Any person charged with deserting, abandoning or failing to provide support for any person in violation  
94 of law.

95 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:

96 1. Who has been abused or neglected;

97 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or is  
98 otherwise before the court pursuant to subdivision A 4; or

99 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court finds  
100 that such person has by overt act or omission induced, caused, encouraged or contributed to the conduct of  
101 the child complained of in the petition.

102 G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other  
103 person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services that  
104 are required by law to be provided for that child or such child's parent, guardian, legal custodian or other  
105 person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and not exclusive of that  
106 of courts having equity jurisdiction as provided in § 16.1-244.

107 H. Judicial consent to apply for a work permit for a child when such child is separated from his parents,  
108 legal guardian or other person standing in loco parentis.

109 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect  
110 of children or with any violation of law that causes or tends to cause a child to come within the purview of  
111 this law, or with any other offense against the person of a child. In prosecution for felonies over which the  
112 court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

113 J. All offenses in which one family or household member is charged with an offense in which another  
114 family or household member is the victim and all offenses under § 18.2-49.1.

115 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
116 determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection  
117 shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of  
118 when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively  
119 waived for all purposes. Any such objection shall not affect or be grounds for challenging directly or

120 collaterally the jurisdiction of the court in which the case is tried.

121 K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished  
122 pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such  
123 petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

124 L. Any person who seeks spousal support after having separated from his spouse. A decision under this  
125 subdivision shall not be res judicata in any subsequent action for spousal support in a circuit court. A circuit  
126 court shall have concurrent original jurisdiction in all causes of action under this subdivision.

127 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4,  
128 or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to § 19.2-  
129 152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

130 N. Any person who escapes or remains away without proper authority from a residential care facility in  
131 which he had been placed by the court or as a result of his commitment to the Virginia Department of  
132 Juvenile Justice.

133 O. Petitions for emancipation of a minor pursuant to Article 15 (§ 16.1-331 et seq.).

134 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§ 63.2-1900  
135 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered by a juvenile and  
136 domestic relations district court upon the filing of a certified copy of such order in the juvenile and domestic  
137 relations district court.

138 Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20. A  
139 circuit court shall have concurrent original jurisdiction to the extent provided for in § 20-49.2.

140 R. [Repealed.]

141 S. Petitions filed by school boards against parents pursuant to §§ 16.1-241.2 and 22.1-279.3.

142 T. Petitions to enforce any request for information or subpoena that is not complied with or to review any  
143 refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to § 63.2-  
144 1526.

145 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-  
146 1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of  
147 filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

148 V. Petitions filed for the purpose of obtaining the court's assistance with the execution of consent to an  
149 adoption when the consent to an adoption is executed pursuant to the laws of another state and the laws of  
150 that state provide for the execution of consent to an adoption in the court of the Commonwealth.

151 W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an abortion if a  
152 minor elects not to seek consent of an authorized person.

153 After a hearing, a judge shall issue an order authorizing a physician to perform an abortion, without the  
154 consent of any authorized person, if he finds that (i) the minor is mature enough and well enough informed to  
155 make her abortion decision, in consultation with her physician, independent of the wishes of any authorized  
156 person, or (ii) the minor is not mature enough or well enough informed to make such decision, but the desired  
157 abortion would be in her best interest.

158 If the judge authorizes an abortion based on the best interests of the minor, such order shall expressly state  
159 that such authorization is subject to the physician or his agent giving notice of intent to perform the abortion;  
160 however, no such notice shall be required if the judge finds that such notice would not be in the best interest  
161 of the minor. In determining whether notice is in the best interest of the minor, the judge shall consider the  
162 totality of the circumstances; however, he shall find that notice is not in the best interest of the minor if he  
163 finds that (a) one or more authorized persons with whom the minor regularly and customarily resides is  
164 abusive or neglectful and (b) every other authorized person, if any, is either abusive or neglectful or has  
165 refused to accept responsibility as parent, legal guardian, custodian or person standing in loco parentis.

166 The minor may participate in the court proceedings on her own behalf, and the court may appoint a  
167 guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall,  
168 upon her request, appoint counsel for her.

169 Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings  
170 relating to consent for a minor's abortion. Court proceedings under this subsection and records of such  
171 proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so  
172 that the court may reach a decision promptly and without delay in order to serve the best interests of the  
173 minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no  
174 event later than four days after the petition is filed.

175 An expedited confidential appeal to the circuit court shall be available to any minor for whom the court  
176 denies an order authorizing an abortion without consent or without notice. Any such appeal shall be heard  
177 and decided no later than five days after the appeal is filed. The time periods required by this subsection shall  
178 be subject to subsection B of § 1-210. An order authorizing an abortion without consent or without notice  
179 shall not be subject to appeal.

180 No filing fees shall be required of the minor at trial or upon appeal.

181 If either the original court or the circuit court fails to act within the time periods required by this

182 subsection, the court before which the proceeding is pending shall immediately authorize a physician to  
183 perform the abortion without consent of or notice to an authorized person.

184 Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on  
185 a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

186 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has  
187 been obtained or the minor delivers to the physician a court order entered pursuant to this section and the  
188 physician or his agent provides such notice as such order may require. However, neither consent nor judicial  
189 authorization nor notice shall be required if the minor declares that she is abused or neglected and the  
190 attending physician has reason to suspect that the minor may be an abused or neglected child as defined in §  
191 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical  
192 emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's  
193 medical record.

194 For purposes of this subsection:

195 "Authorization" means the minor has delivered to the physician a notarized, written statement signed by  
196 an authorized person that the authorized person knows of the minor's intent to have an abortion and consents  
197 to such abortion being performed on the minor.

198 "Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a  
199 person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the  
200 minor regularly and customarily resides and who has care and control of the minor. Any person who knows  
201 he is not an authorized person and who knowingly and willfully signs an authorization statement consenting  
202 to an abortion for a minor is guilty of a Class 3 misdemeanor.

203 "Consent" means that (i) the physician has given notice of intent to perform the abortion and has received  
204 authorization from an authorized person, or (ii) at least one authorized person is present with the minor  
205 seeking the abortion and provides written authorization to the physician, which shall be witnessed by the  
206 physician or an agent thereof. In either case, the written authorization shall be incorporated into the minor's  
207 medical record and maintained as a part thereof.

208 "Medical emergency" means any condition which, on the basis of the physician's good faith clinical  
209 judgment, so complicates the medical condition of the pregnant minor as to necessitate the immediate  
210 abortion of her pregnancy to avert her death or for which a delay will create a serious risk of substantial and  
211 irreversible impairment of a major bodily function.

212 "Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice  
213 of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24  
214 hours previous to the performance of the abortion or (ii) the physician or his agent, after a reasonable effort to  
215 notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such  
216 person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of  
217 the abortion.

218 "Perform an abortion" means to interrupt or terminate a pregnancy by any surgical or nonsurgical  
219 procedure or to induce a miscarriage as provided in § 18.2-72, 18.2-73, or 18.2-74.

220 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage,  
221 even though the marriage may have been terminated by dissolution; (ii) active duty with any of the Armed  
222 Forces of the United States; (iii) willingly living separate and apart from his or her parents or guardian, with  
223 the consent or acquiescence of the parents or guardian; or (iv) entry of an order of emancipation pursuant to  
224 Article 15 (§ 16.1-331 et seq.).

225 X. Petitions filed pursuant to Article 17 (§ 16.1-349 et seq.) relating to standby guardians for minor  
226 children.

227 Y. Petitions involving minors filed pursuant to § 32.1-45.1 relating to obtaining a blood specimen or test  
228 results.

229 Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of services  
230 and support for persons who meet the eligibility criteria for the Fostering Futures program set forth in § 63.2-  
231 919.

232 The ages specified in this law refer to the age of the child at the time of the acts complained of in the  
233 petition.

234 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of any  
235 process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of § 17.1-272, or  
236 subsection B, D, M, or R.

237 Notwithstanding the provisions of § 18.2-71, any physician who performs an abortion in violation of  
238 subsection W shall be guilty of a Class 3 misdemeanor.

239 Upon certification by the juvenile and domestic relations district court of any felony charge and ancillary  
240 misdemeanor charge committed by an adult or when an appeal of a conviction or adjudication of delinquency  
241 of an offense in the juvenile and domestic relations district court is noted, jurisdiction as to such charges shall  
242 vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or

243 decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has  
244 been withdrawn in the juvenile and domestic relations district court within 10 days pursuant to § 16.1-133.

245 **§ 16.1-283.01. Termination of parental rights; cause of action created.**

246 *A parent may file a petition to terminate the parental rights of the other parent if the circumstances giving*  
247 *rise to such a petition allege that such other parent engaged in the conduct prohibited by subsection A of §*  
248 *18.2-61, subsection A of § 18.2-63, or subsection B of § 18.2-366, whether or not the parent has been*  
249 *charged with or convicted of the alleged violation, and the child was conceived of such conduct.*

250 *Any such order terminating the parental rights of a parent shall be entered upon a finding, based on clear*  
251 *and convincing evidence, that (i) such parent engaged in the conduct prohibited by subsection A of § 18.2-61,*  
252 *subsection A of § 18.2-63, or subsection B of § 18.2-366, whether or not the parent has been charged with or*  
253 *convicted of the alleged violation, and the child was conceived of such conduct and (ii) termination of the*  
254 *parental rights of such parent is in the best interests of the child. For the purposes of this section, if such*  
255 *parent is found by clear and convincing evidence to have engaged in the conduct prohibited by clause (i)*  
256 *resulting in the conception of such child, there shall be a rebuttable presumption that termination is in the*  
257 *best interests of the child. No presumption shall be made by the court that one parent alone is contrary to the*  
258 *best interests of the child.*

259 *Any statements made by the parent against whom such petition was filed in a hearing held pursuant to*  
260 *this section shall be inadmissible in a subsequent related criminal proceeding, except for purposes of*  
261 *impeachment.*

262 *After the filing of a petition pursuant to this section, a summons shall be served upon the parent against*  
263 *whom the petition is filed and any other party specified by § 16.1-263, and service shall be made pursuant to*  
264 *§ 16.1-264.*

265 *Any provision regarding the appointment of a guardian ad litem applicable to petitions filed pursuant §*  
266 *16.1-283 shall apply mutatis mutandis to petitions filed pursuant to this section.*

INTRODUCED

HB765