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HOUSE BILL NO. 765**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice

on February 2, 2024)

(Patron Prior to Substitute—Delegate Delaney)

A *BILL to amend and reenact §§ 16.1-241 and 16.1-266 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.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241 and 16.1-266 of the Code of Virginia are 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 or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents,

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

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

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

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

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

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

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

94 1. Who has been abused or neglected;

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

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

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

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

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

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

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

119 K. Petitions filed by a natural parent, whose parental rights to a child have been voluntarily relinquished
120 pursuant to a court proceeding, to seek a reversal of the court order terminating such parental rights. No such

121 petition shall be accepted, however, after the child has been placed in the home of adoptive parents.

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

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

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

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

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

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

138 R. [Repealed.]

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

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

143 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to § 63.2-
144 1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days of
145 filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

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

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

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

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

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

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

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

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

179 If either the original court or the circuit court fails to act within the time periods required by this
180 subsection, the court before which the proceeding is pending shall immediately authorize a physician to
181 perform the abortion without consent of or notice to an authorized person.

182 Nothing contained in this subsection shall be construed to authorize a physician to perform an abortion on

183 a minor in circumstances or in a manner that would be unlawful if performed on an adult woman.

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

192 For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

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

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

237 Upon certification by the juvenile and domestic relations district court of any felony charge and ancillary
238 misdemeanor charge committed by an adult or when an appeal of a conviction or adjudication of delinquency
239 of an offense in the juvenile and domestic relations district court is noted, jurisdiction as to such charges shall
240 vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or
241 decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has
242 been withdrawn in the juvenile and domestic relations district court within 10 days pursuant to § 16.1-133.

243 **§ 16.1-266. Appointment of counsel and guardian ad litem.**

244 A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected

245 or who is the subject of an entrustment agreement or a petition seeking termination of residual parental rights
 246 or *parental rights* or who is otherwise before the court pursuant to subdivision A 4 of § 16.1-241 or § 63.2-
 247 1230, the court shall appoint a discreet and competent attorney-at-law as guardian ad litem to represent the
 248 child pursuant to § 16.1-266.1.

249 B. Prior to the detention hearing held pursuant to § 16.1-250, the court shall appoint a qualified and
 250 competent attorney-at-law to represent the child unless an attorney has been retained and appears on behalf of
 251 the child. For the purposes of appointment of counsel for the detention hearing held pursuant to § 16.1-250
 252 only, a child's indigence shall be presumed. Nothing in this subsection shall prohibit a judge from releasing a
 253 child from detention prior to appointment of counsel.

254 C. Subsequent to the detention hearing, if any, and prior to the adjudicatory or transfer hearing by the
 255 court of any case involving a child who is alleged to be in need of services, in need of supervision or
 256 delinquent, such child and his parent, guardian, legal custodian or other person standing in loco parentis shall
 257 be informed by a judge, clerk or probation officer of the child's right to counsel and of the liability of the
 258 parent, guardian, legal custodian or other person standing in loco parentis for the costs of such legal services
 259 pursuant to § 16.1-267 and be given an opportunity to:

260 1. Obtain and employ counsel of the child's own choice; or

261 2. Request that the court appoint counsel, provided that before counsel is appointed or the court continues
 262 any appointment previously made pursuant to subsection B, the court shall determine that the child is indigent
 263 within the contemplation of the law pursuant to guidelines set forth in § 19.2-159 by requiring the child's
 264 parent, guardian, legal custodian or other person standing in loco parentis to complete a statement of
 265 indigence substantially in the form provided by § 19.2-159 and a financial statement, and upon determination
 266 of indigence the court shall appoint an attorney from the list maintained by the Indigent Defense Commission
 267 pursuant to § 19.2-163.01 to represent the child; or

268 3. Waive the right to representation by an attorney, if the court finds the child and the parent, guardian,
 269 legal custodian or other person standing in loco parentis of the child consent, in writing, and such waiver is
 270 consistent with the interests of the child. Such written waiver shall be in accordance with law and shall be
 271 filed with the court records of the case. A child who is alleged to have committed an offense that would be a
 272 felony if committed by an adult, may waive such right only after he consults with an attorney and the court
 273 determines that his waiver is free and voluntary. The waiver shall be in writing, signed by both the child and
 274 the child's attorney and shall be filed with the court records of the case.

275 D. A judge, clerk or probation officer shall inform the parent or guardian of his right to counsel prior to
 276 the adjudicatory hearing of a petition in which a child is alleged to be abused or neglected or at risk of abuse
 277 or neglect as provided in subdivision A 2a of § 16.1-241 and prior to a hearing at which a parent could be
 278 subjected to the loss of residual parental rights *pursuant to § 16.1-283 or parental rights pursuant to § 16.1-*
 279 *283.01*. In addition, prior to the hearing by the court of any case involving any other adult charged with abuse
 280 or neglect of a child, this adult shall be informed of his right to counsel. This adult and the parent or guardian
 281 shall be given an opportunity to:

282 1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or

283 2. If the court determines that the parent, guardian or other adult is indigent within the contemplation of
 284 the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in the form provided by §
 285 19.2-159 and a financial statement shall be executed by such parent, guardian or other adult and the court
 286 shall appoint an attorney-at-law to represent him; or

287 3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-160.

288 If the identity or location of a parent or guardian is not reasonably ascertainable or a parent or guardian
 289 fails to appear, the court shall consider appointing an attorney-at-law to represent the interests of the absent
 290 parent or guardian, and the hearing may be held.

291 Prior to a hearing at which a child is the subject of an initial foster care plan filed pursuant to § 16.1-281, a
 292 foster care review hearing pursuant to § 16.1-282 and a permanency planning hearing pursuant to § 16.1-
 293 282.1, the court shall consider appointing counsel to represent the child's parent or guardian.

294 E. In those cases described in subsections A, B, C and D, which in the discretion of the court require
 295 counsel or a guardian ad litem to represent the child or children or the parent or guardian or other adult party
 296 in addition to the representation provided in those subsections, a discreet and competent attorney-at-law may
 297 be appointed by the court as counsel or a guardian ad litem.

298 F. In all other cases which in the discretion of the court require counsel or a guardian ad litem, or both, to
 299 represent the child or children or the parent or guardian, discreet and competent attorneys-at-law may be
 300 appointed by the court. However, in cases where the custody of a child or children is the subject of
 301 controversy or requires determination and each of the parents or other persons claiming a right to custody is
 302 represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent the interests of
 303 the child or children unless the court finds, at any stage in the proceedings in a specific case, that the interests
 304 of the child or children are not otherwise adequately represented.

305 G. Any state or local agency, department, authority or institution and any school, hospital, physician or

306 other health or mental health care provider shall permit a guardian ad litem or counsel for the child appointed
307 pursuant to this section to inspect and copy, without the consent of the child or his parents, any records
308 relating to the child whom the guardian or counsel represents upon presentation by him of a copy of the court
309 order appointing him or a court order specifically allowing him such access. Upon request therefor by the
310 guardian ad litem or counsel for the child made at least 72 hours in advance, a mental health care provider
311 shall make himself available to conduct a review and interpretation of the child's treatment records which are
312 specifically related to the investigation. Such a request may be made in lieu of or in addition to inspection and
313 copying of the records.

314 **§ 16.1-283.01. Termination of parental rights; cause of action created.**

315 *A parent may file a petition to terminate the parental rights of the other parent if the circumstances giving*
316 *rise to such a petition allege that such other parent engaged in the conduct prohibited by subsection A of §*
317 *18.2-61, subsection A of § 18.2-63, or subsection B of § 18.2-366, whether or not the parent has been*
318 *charged with or convicted of the alleged violation, and the child was conceived of such conduct.*

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

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

331 *After the filing of a petition pursuant to this section, a summons shall be served upon the parent against*
332 *whom the petition is filed and any other party specified by § 16.1-263, and service shall be made pursuant to*
333 *§ 16.1-264.*

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