

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 16.1-263 of the Code of Virginia, relating to summonses of a juvenile;*
 3 *custody, visitation, and support proceedings.*

4 [H 2115]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 16.1-263 of the Code of Virginia is amended and reenacted as follows:**8 **§ 16.1-263. Summonses.**

9 A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the
 10 juvenile, if the juvenile is ~~twelve~~ 12 or more years of age, *except for juveniles whose custody, visitation, or*
 11 *support is a subject of controversy or requires determination pursuant to subdivision A 3 of § 16.1-241, and*
 12 *another to at least one parent, guardian, legal custodian, or other person standing in loco parentis, and such*
 13 *other persons as appear to the court to be proper or necessary parties to the proceedings.*

14 *After a petition has been filed in cases involving custody or visitation of a juvenile pursuant to subdivision*
 15 *A 3 of § 16.1-241, the court may direct the issuance of a summons to the juvenile for any hearing to*
 16 *adjudicate or dispose of such petition (i) on its own motion or (ii) upon request of any party to such petition.*

17 *After a petition has been filed in cases solely involving support of a juvenile pursuant to subdivision A 3 of*
 18 *§ 16.1-241, the court may direct the issuance of a summons to the juvenile (a) on its own motion or (b) for*
 19 *good cause shown by the party requesting the issuance of such summonses.*

20 After a petition has been filed against an adult pursuant to subsection C or D of § 16.1-259, the court shall
 21 direct the issuance of a summons against the adult.

22 The summons shall require them to appear personally before the court at the time fixed to answer or
 23 testify as to the allegations of the petition. Where the custodian is summoned and such person is not a parent
 24 of the juvenile in question, a parent shall also be served with a summons. The court may direct that other
 25 proper or necessary parties to the proceedings be notified of the pendency of the case, the charge and the time
 26 and place for the hearing.

27 Any such summons shall be deemed a mandate of the court, and willful failure to obey its requirements
 28 shall subject any person guilty thereof to liability for punishment for contempt. Upon the failure of any
 29 person to appear as ordered in the summons, the court shall immediately issue an order for such person to
 30 show cause why he should not be held in contempt.

31 The parent, guardian, legal custodian, or other person standing in loco parentis shall not be summoned to
 32 appear or be punished for failure to appear in cases of adults who are brought before the court pursuant to
 33 subsection C or D of § 16.1-259 unless such person is summoned as a witness.

34 B. The summons shall advise the parties of their right to counsel as provided in § 16.1-266. A copy of the
 35 petition shall accompany each summons for the initial proceedings. The summons shall include notice that in
 36 the event that the juvenile is committed to the Department or to a secure local facility, at least one parent or
 37 other person legally obligated to care for and support the juvenile may be required to pay a reasonable sum
 38 for treatment of the juvenile pursuant to § 16.1-290. Notice of subsequent proceedings shall be provided to all
 39 parties in interest. In all cases where a party is represented by counsel and counsel has been provided with a
 40 copy of the petition and due notice as to time, date, and place of the hearing, such action shall be deemed due
 41 notice to such party, unless such counsel has notified the court that he no longer represents such party.

42 C. The judge may endorse upon the summons an order directing a parent or parents, guardian, or other
 43 custodian having the custody or control of the juvenile to bring the juvenile to the hearing.

44 D. A party, other than the juvenile, may waive service of summons by written stipulation or by voluntary
 45 appearance at the hearing.

46 E. No such summons or notification shall be required if the judge shall certify on the record that (i) the
 47 identity of a parent or guardian is not reasonably ascertainable or (ii) in cases in which it is alleged that a
 48 juvenile has committed a delinquent act, crime, status offense, or traffic infraction or is in need of services or
 49 supervision, the location, or in the case of a parent or guardian located outside of the Commonwealth the
 50 location or mailing address, of a parent or guardian is not reasonably ascertainable. An affidavit of the mother
 51 that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided
 52 there is no other evidence before the court which would refute such an affidavit. In cases referred to in clause
 53 (ii), an affidavit of a law-enforcement officer or juvenile probation officer that the location of a parent or
 54 guardian is not reasonably ascertainable shall be sufficient evidence of this fact, provided that there is no
 55 other evidence before the court which would refute the affidavit.