

HOUSE BILL NO. 901
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Delegate Sullivan)

A BILL to amend and reenact §§ 16.1-241, 19.2-152.13, 19.2-152.14, and 19.2-152.16 of the Code of Virginia, relating to substantial risk orders; eligible petitioners; substantial risk factors and considerations; court jurisdiction; constructive possession of firearms; penalty.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 19.2-152.13, 19.2-152.14, and 19.2-152.16 of the Code of Virginia are amended and reenacted 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.

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, step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a legitimate interest shall not include any person (i) whose parental rights have been terminated by court order,

either voluntarily or involuntarily, except for purposes of this title, as otherwise provided by this paragraph; (ii) whose interest in the child derives from or through a person whose parental rights have been terminated by court order, either voluntarily or involuntarily, or whose interest in the child derives from or through a person pursuant to clause (iii), including, but not limited to, grandparents, stepparents, former stepparents, blood relatives and family members, if the child subsequently has been legally adopted, except where a final order of adoption is entered pursuant to § 63.2-1241; or (iii) who has been convicted of a violation of subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state, the United States, or any foreign jurisdiction, or who has been found by clear and convincing evidence to have engaged in the conduct prohibited by subsection A of § 18.2-61, § 18.2-63, or subsection B of § 18.2-366, whether or not the person has been charged with or convicted of the alleged violation, when the child who is the subject of the petition was conceived as a result of such violation or conduct. The authority of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited where the child has previously been awarded to the custody of a local board of social services. For purposes of this title, a party with a legitimate interest shall also include a parent whose rights previously had been terminated, provided that the child whose custody or visitation is at issue (a) is at least 14 years of age; (b) has had a permanency goal previously achieved by adoption; (c) has had his adoptive parents die or, pursuant to § 16.1-277.02, each of such child's adoptive parents has permanently been relieved of custody of such child and each adoptive parent has had his parental rights terminated; and (d) is in the custody of a local board of social services, and provided that the parent whose rights had previously been terminated has (1) complied with the terms of any written post-adoption contact and communication agreement entered into pursuant to Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 and (2) maintained a positive, continuous relationship with the child since termination.

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

B. The admission of minors for inpatient treatment in a mental health facility in accordance with the provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental illness or judicial certification of eligibility for admission to a training center for persons with intellectual disability in

93 accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary
94 admission and certification of adults shall be concurrent with the general district court.

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

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

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

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

107 1. Who has been abused or neglected;

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

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

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

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

120 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect
121 of children or with any violation of law that causes or tends to cause a child to come within the purview of

122 this law, or with any other offense against the person of a child. In prosecution for felonies over which the
123 court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

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

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

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

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

138 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1, 16.1-253.4,
139 or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection pursuant to
140 § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a juvenile.

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

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

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

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

151 R. [Repealed.]

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

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

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

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

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

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

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

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

Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings

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

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

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

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

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

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

For purposes of this subsection:

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

"Authorized person" means (i) a parent or duly appointed legal guardian or custodian of the minor or (ii) a person standing in loco parentis, including, but not limited to, a grandparent or adult sibling with whom the

211 minor regularly and customarily resides and who has care and control of the minor. Any person who knows
212 he is not an authorized person and who knowingly and willfully signs an authorization statement consenting
213 to an abortion for a minor is guilty of a Class 3 misdemeanor.

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

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

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

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

231 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid marriage
232 entered into prior to July 1, 2024, or lawfully entered into in another state or country prior to being domiciled
233 in the Commonwealth, even though the marriage may have been terminated by dissolution; (ii) active duty
234 with any of the Armed Forces of the United States; (iii) willingly living separate and apart from his or her
235 parents or guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of
236 emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

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

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

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

AA. *Petitions involving minors filed pursuant to Chapter 9.2 (§ 19.2-152.13 et seq.) relating to emergency and substantial risk orders.*

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

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

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

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

§ 19.2-152.13. Emergency substantial risk order.

A. *As used in this section:*

"Act of violence, force, or threat" means the same as that term is defined in § 19.2-152.7:1.

"Certified evaluator" means an individual with an educational attainment of a master's or doctoral degree with an associated professional license who (i) is skilled in the assessment and treatment of mental illness; (ii) has completed a training and certification program approved by the Department; (iii) has received a prescreener orientation presentation developed by the Department in consultation with the Virginia Association of Community Services Boards, which shall include information on determining the least restrictive treatment available for the person being evaluated pursuant to subsection G of § 37.2-817.01.

"Department" means the Department of State Police.

"Designee of the local community services board" means the same as that term is defined in § 37.2-809.

"Immediate family or household member" means a spouse, former spouse, child, parent, brother, sister, or any other person living in the same household as the respondent.

272 "Intimate partner" means an individual who, within the previous 12 months, was in a romantic, dating, or
273 sexual relationship with the person as determined by the length, nature, frequency, and type of interaction
274 between the individuals involved in the relationship.

275 B. Upon the petition of an attorney for the Commonwealth, ~~or~~ a law-enforcement officer, licensed
276 professional counselor, licensed clinical social worker, licensed marriage and family therapist, licensed
277 clinical psychologist, licensed clinical psychiatrist, licensed psychiatric nurse practitioner, psychiatric
278 physician assistant, psychiatric clinical nurse specialist, doctor of medicine, doctor of osteopathy, certified
279 evaluator, designee of the local community services board, immediate family or household member, intimate
280 partner, school administrator, or superintendent or superintendent's designee, who may be a representative
281 from the threat assessment team established pursuant to § 22.1-79.4, of any school in which the person
282 against whom the order is sought is currently enrolled or has been enrolled in the six months preceding the
283 filing of such petition, a judge of a circuit court, general district court, or juvenile and domestic relations
284 district court or a magistrate, upon a finding *at an ore tenus hearing* that there is probable cause to believe
285 that a person poses a substantial risk of personal injury to himself or others in the near future by such person's
286 possession or acquisition of a firearm, shall issue an ex parte emergency substantial risk order. Such order
287 shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for
288 the duration of the order. In determining whether probable cause for the issuance of an order exists, the judge
289 or magistrate shall consider any relevant evidence, including ~~any~~, but not limited to:

290 1. Any recent act of violence, force, or threat ~~as defined in § 19.2-152.7:1~~ by such person directed toward
291 another person ~~or toward~~, himself. ~~No petition shall be filed unless an independent investigation has been~~
292 ~~conducted by law enforcement that determines that grounds for the petition exist,~~ a group of persons, or a
293 location;

294 2. Any recent act of violence, force, or threat by the subject of the petition toward an animal;

295 3. Any recent violation of any provision of a protective order issued pursuant to § 16.1-253, 16.1-253.1,
296 16.1-253.4, 16.1-278.14, 16.1-279.1, 19.2-152.8, or 19.2-152.10;

297 4. Any order entered pursuant to Chapter 8 (§ 37.2-800 et seq.) of Title 37.2;

298 5. Evidence of recent or ongoing abuse of controlled substances or alcohol; or

299 6. Evidence of recent acquisition or attempted acquisition of firearms, ammunition, or deadly weapons.

300 Such information may be alleged by the petitioner in his petition or may be offered through testimony at
301 such hearing by the petitioner or any witnesses he may call to support his position. The order shall contain a
302 statement (i) informing the person who is subject to the order of the requirements and penalties under

§ 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm within his custody to the law-enforcement agency that serves the order.

~~B.~~ C. The petition for an emergency substantial risk order shall be made under oath and shall be supported by an affidavit.

D. Upon receiving credible information that a person poses a substantial risk of personal injury to himself or others in the near future by such person's possession or acquisition of a firearm, law enforcement shall take the proper steps necessary to determine whether grounds exist to file an emergency substantial risk order petition pursuant to this section.

~~C.~~ E. Upon service of an emergency substantial risk order, the person who is subject to the order shall be given the opportunity to voluntarily relinquish any firearm in his possession. The law-enforcement agency that executed the emergency substantial risk order shall take custody of all firearms that are voluntarily relinquished by such person. The law-enforcement agency that takes into custody a firearm pursuant to the order shall prepare a written receipt containing the name of the person who is subject to the order and the manufacturer, model, condition, and serial number of the firearm and shall provide a copy thereof to such person. Nothing in this subsection precludes a law-enforcement officer from later obtaining a search warrant for any firearms if the law-enforcement officer has reason to believe that the person who is subject to an emergency substantial risk order has not relinquished all firearms in his possession.

~~D.~~ F. An emergency substantial risk order issued pursuant to this section shall expire at 11:59 p.m. on the fourteenth day following issuance of the order. If the expiration occurs on a day that the circuit court for the jurisdiction where the order was issued is not in session, the order shall be extended until 11:59 p.m. on the next day that the circuit court is in session. The person who is subject to the order may at any time file with the circuit court a motion to dissolve the order.

~~E.~~ G. An emergency substantial risk order issued pursuant to this section is effective upon personal service on the person who is subject to the order. The order shall be served forthwith after issuance. A copy of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together with a notice informing the person that he has a right to a hearing under § 19.2-152.14 and may be represented by counsel at the hearing. *When an emergency substantial risk order is issued against a minor, a copy of the order shall be served on the parent or guardian of such minor at any address where such minor resides, or the Virginia Department of Social Services in the case where such minor is the subject of a*

334 *dependency or court-approved out-of-home placement.*

335 ~~F. H.~~ The court or magistrate shall forthwith, but in all cases no later than the end of the business day on
336 which the emergency substantial risk order was issued, enter and transfer electronically to the Virginia
337 Criminal Information Network (VCIN) established and maintained by the Department of State Police
338 ~~(Department)~~ pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 the identifying information of the person
339 who is subject to the order provided to the court or magistrate. A copy of an order issued pursuant to this
340 section containing any such identifying information shall be forwarded forthwith to the primary
341 law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the
342 primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary
343 to the identifying information and other appropriate information required by the Department into the VCIN,
344 and the order shall be served forthwith upon the person who is subject to the order. However, if the order is
345 issued by the ~~circuit~~ court, the clerk of the ~~circuit~~ court shall forthwith forward an attested copy of the order
346 containing the identifying information of the person who is subject to the order provided to the court to the
347 primary law-enforcement agency providing service and entry of the order. Upon receipt of the order by the
348 primary law-enforcement agency, the agency shall enter the name of the person subject to the order and other
349 appropriate information required by the Department into the VCIN and the order shall be served forthwith
350 upon the person who is subject to the order. Upon service, the agency making service shall enter the date and
351 time of service and other appropriate information required into the VCIN and make due return to the court. If
352 the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested
353 and forwarded forthwith to the primary law-enforcement agency responsible for service and entry of the
354 order. Upon receipt of the dissolution or modification order by the primary law-enforcement agency, the
355 agency shall forthwith verify and enter any modification as necessary to the identifying information and other
356 appropriate information required by the Department into the VCIN and the order shall be served forthwith.

357 ~~G. I.~~ The law-enforcement agency that serves the emergency substantial risk order shall make due return
358 to the ~~circuit~~ court, which shall be accompanied by a written inventory of all firearms relinquished.

359 ~~H. J.~~ Proceedings in which an emergency substantial risk order is sought pursuant to this section shall be
360 commenced where the person who is subject to the order (i) has his principal residence or (ii) has engaged in
361 any conduct upon which the petition for the emergency substantial risk order is based.

362 ~~I. K.~~ A proceeding for a substantial risk order shall be a separate civil legal proceeding subject to the same
363 rules as civil proceedings.

364 *L. Notwithstanding the provisions of subsection F, any emergency substantial risk order issued pursuant*

to this section shall remain in full force and effect pending any appeal.

§ 19.2-152.14. Substantial risk order.

A. Not later than 14 days after the issuance of an emergency substantial risk order pursuant to § 19.2-152.13, the circuit court, *general district court, or juvenile and domestic relations district court* for the jurisdiction where the order was issued shall hold a hearing to determine whether a substantial risk order should be entered. *If the emergency substantial risk order pursuant to § 19.2-152.13 was issued by a magistrate, only the circuit court for the jurisdiction where the order was issued shall hold the hearing to determine whether a substantial risk order should be entered. If the emergency substantial risk order pursuant to § 19.2-152.13 was issued by the circuit court, general district court, or juvenile and domestic relations district court, the court that issued such order shall hold the hearing to determine whether a substantial risk order should be entered.* The attorney for the Commonwealth for the jurisdiction that issued the emergency substantial risk order shall represent the interests of the Commonwealth. Notice of the hearing shall be given to the person subject to the emergency substantial risk order and the attorney for the Commonwealth. Upon motion of the respondent and for good cause shown, the court may continue the hearing, provided that the order shall remain in effect until the hearing. The Commonwealth shall have the burden of proving all material facts by clear and convincing evidence. If the court finds by clear and convincing evidence that the person poses a substantial risk of personal injury to himself or to other individuals in the near future by such person's possession or acquisition of a firearm, the court shall issue a substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing, possessing, or transporting a firearm for the duration of the order. In determining whether clear and convincing evidence for the issuance of an order exists, the judge shall consider any relevant evidence, including ~~any recent act of violence, force, or threat as defined in § 19.2-152.7:1 by such person directed toward another person or toward himself~~ but not limited to the factors in subdivisions B 1 through 6 of § 19.2-152.13. The order shall contain a statement (i) informing the person who is subject to the order of the requirements and penalties under § 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for the duration of the order and that such person is required to surrender his concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm that has not been taken into custody to the law-enforcement agency that served the emergency substantial risk order. *When a substantial risk order is issued against a minor, a copy of the order shall be served on the parent or guardian of such minor at any address where such minor resides, or the Virginia Department of Social Services in the case where such minor is the subject of a dependency or court-approved*

396 *out-of-home placement.*

397 B. If the court issues a substantial risk order pursuant to subsection A, the court shall (i) order that any
398 firearm that was previously relinquished pursuant to § 19.2-152.13 from the person who is subject to the
399 substantial risk order continue to be held by the agency that has custody of the firearm for the duration of the
400 order and (ii) advise such person that a law-enforcement officer may obtain a search warrant to search for any
401 firearms from such person if such law-enforcement officer has reason to believe that such person has not
402 relinquished all firearms in his possession.

403 If the court finds that the person does not pose a substantial risk of personal injury to himself or to other
404 individuals in the near future, the court shall order that any firearm that was previously relinquished be
405 returned to such person in accordance with the provisions of § 19.2-152.15.

406 C. The substantial risk order may be issued for a specified period of time up to a maximum of 180 days.
407 The order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day
408 period if no date is specified. Prior to the expiration of the order, an attorney for the Commonwealth or a law-
409 enforcement officer may file a written motion requesting a hearing to extend the order. Proceedings to extend
410 an order shall be given precedence on the docket of the court. The court may extend the order for a period not
411 longer than 180 days if the court finds by clear and convincing evidence that the person continues to pose a
412 substantial risk of personal injury to himself or to other individuals in the near future by such person's
413 possession or acquisition of a firearm at the time the request for an extension is made. The extension of the
414 order shall expire at 11:59 p.m. on the last day specified or at 11:59 p.m. on the last day of the 180-day period
415 if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.
416 The person who is subject to the order may file a motion to dissolve the order one time during the duration of
417 the order; however, such motion may not be filed earlier than 30 days from the date the order was issued.

418 D. Any person whose firearm has been voluntarily relinquished pursuant to § 19.2-152.13 or this section,
419 or such person's legal representative, may transfer the firearm to another individual 21 years of age or older
420 who is not otherwise prohibited by law from possessing such firearm, provided that:

- 421 1. The person subject to the order and the transferee appear at the hearing;
- 422 2. At the hearing, the attorney for the Commonwealth advises the court that a law-enforcement agency has
423 determined that the transferee is not prohibited from possessing or transporting a firearm;
- 424 3. The transferee does not reside with the person subject to the order;
- 425 4. The court informs the transferee of the requirements and penalties under § 18.2-308.2:1; and

5. The court, after considering all relevant factors and any evidence or testimony from the person subject to the order, approves the transfer of the firearm subject to such restrictions as the court deems necessary.

The law-enforcement agency holding the firearm shall deliver the firearm to the transferee within five days of receiving a copy of the court's approval of the transfer.

E. If a person other than the respondent claims title to any firearms surrendered pursuant to § 19.2-152.13 or this section, and that person is determined by the law-enforcement agency to be the lawful owner of the firearm, the firearm shall be returned to that person, provided that:

1. The firearm is removed from the respondent's custody, control, or possession and the lawful owner provides written verification to the court regarding how the lawful owner will safely store the firearm in a manner such that the respondent does not have access to, or control of, the firearm for the duration of the order;

2. The court advises the lawful owner of the potential penalties for violating § 18.2-308.2:1; and

3. The firearm is not otherwise unlawfully possessed by the owner.

F. The court shall forthwith, but in all cases no later than the end of the business day on which the substantial risk order was issued, enter and transfer electronically to the Virginia Criminal Information Network (VCIN) established and maintained by the Department of State Police (*the Department*) pursuant to Chapter 2 (§ 52-12 et seq.) of Title 52 the identifying information of the person who is subject to the order provided to the court and shall forthwith forward the attested copy of the order containing any such identifying information to the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the order by the primary law-enforcement agency, the agency shall forthwith verify and enter any modification as necessary to the identifying information and other appropriate information required by the Department into the VCIN and the order shall be served forthwith upon the person who is subject to the order and due return made to the court. Upon service, the agency making service shall enter the date and time of service and other appropriate information required by the Department into the VCIN and make due return to the court. If the person who is subject to an emergency substantial risk order fails to appear at the hearing conducted pursuant to this section because such person was not personally served with notice of the hearing pursuant to subsection A, or if personally served was incarcerated and not transported to the hearing, the court may extend the emergency substantial risk order for a period not to exceed 14 days. The extended emergency substantial risk order shall specify a date for a hearing to be conducted pursuant to this section and shall be served forthwith on such person and due return made to the court. If the order is later dissolved or modified, a copy of the dissolution or modification order shall also be attested and forwarded forthwith to

457 the primary law-enforcement agency responsible for service and entry of the order. Upon receipt of the
458 dissolution or modification order by the primary law-enforcement agency, the agency shall forthwith verify
459 and enter any modification as necessary to the identifying information and other appropriate information
460 required by the Department of State Police into the Virginia Criminal Information Network, and the order
461 shall be served forthwith and due return made to the court.

462 *G. Notwithstanding the provisions of subsection C, any substantial risk order issued pursuant to this*
463 *section shall remain in full force and effect pending any appeal.*

464 **§ 19.2-152.16. False statement to law-enforcement officer, etc.; penalty.**

465 Any person who knowingly and willfully makes any materially false statement or representation to (i) a
466 law-enforcement officer or attorney for the Commonwealth who is in the course of conducting an
467 investigation undertaken pursuant to this chapter or (ii) a court or magistrate during the petitioning process
468 pursuant to this chapter is guilty of a Class 1 misdemeanor.