

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [S 495]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **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**
9 **reenacted as follows:**10 **§ 16.1-241. Jurisdiction; consent for abortion.**11 The judges of the juvenile and domestic relations district court elected or appointed under this law shall be
12 conservators of the peace within the corporate limits of the cities and the boundaries of the counties for which
13 they are respectively chosen and within one mile beyond the limits of such cities and counties. Except as
14 hereinafter provided, each juvenile and domestic relations district court shall have, within the limits of the
15 territory for which it is created, exclusive original jurisdiction, and within one mile beyond the limits of said
16 city or county, concurrent jurisdiction with the juvenile court or courts of the adjoining city or county, over
17 all cases, matters and proceedings involving:

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

19 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status offender, or
20 delinquent except where the jurisdiction of the juvenile court has been terminated or divested;21 2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical or
22 mental incapacity of his parents is without parental care and guardianship;23 2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated as
24 having abused or neglected another child in the care of the parent or custodian;25 3. Whose custody, visitation or support is a subject of controversy or requires determination. In such cases
26 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except as provided
27 in § 16.1-244;28 4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817 or
29 whose parent or parents for good cause desire to be relieved of his care and custody;30 5. Where the termination of residual parental rights and responsibilities is sought. In such cases
31 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in
32 § 16.1-244;

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

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

35 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated in
36 subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile court shall
37 be limited to conducting a preliminary hearing to determine if there is probable cause to believe that the
38 juvenile committed the act alleged and that the juvenile was 16 years of age or older at the time of the
39 commission of the alleged offense, and any matters related thereto. In any case in which the juvenile is
40 alleged to have committed a violent juvenile felony enumerated in subsection C of § 16.1-269.1, and for all
41 charges ancillary thereto, if the attorney for the Commonwealth has given notice as provided in subsection C
42 of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited to conducting a preliminary hearing to
43 determine if there is probable cause to believe that the juvenile committed the act alleged and that the
44 juvenile was 16 years of age or older at the time of the commission of the alleged offense, and any matters
45 related thereto. A determination by the juvenile court following a preliminary hearing pursuant to subsection
46 B or C of § 16.1-269.1 to certify a charge to the grand jury shall divest the juvenile court of jurisdiction over
47 the charge and any ancillary charge. In any case in which a transfer hearing is held pursuant to subsection A
48 of § 16.1-269.1, if the juvenile court determines to transfer the case, jurisdiction of the juvenile court over the
49 case shall be divested as provided in § 16.1-269.6.50 In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a
51 violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser
52 offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be divested
53 unless there is a transfer pursuant to subsection A of § 16.1-269.1.54 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support, control
55 or disposition of a child shall not be limited to the consideration of petitions filed by a mother, father or legal
56 guardian but shall include petitions filed at any time by any party with a legitimate interest therein. A party

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57 with a legitimate interest shall be broadly construed and shall include, but not be limited to, grandparents,
 58 step-grandparents, stepparents, former stepparents, blood relatives and family members. A party with a
 59 legitimate interest shall not include any person (i) whose parental rights have been terminated by court order,
 60 either voluntarily or involuntarily, except for purposes of this title, as otherwise provided by this paragraph;
 61 (ii) whose interest in the child derives from or through a person whose parental rights have been terminated
 62 by court order, either voluntarily or involuntarily, or whose interest in the child derives from or through a
 63 person pursuant to clause (iii), including, but not limited to, grandparents, stepparents, former stepparents,
 64 blood relatives and family members, if the child subsequently has been legally adopted, except where a final
 65 order of adoption is entered pursuant to § 63.2-1241; or (iii) who has been convicted of a violation of
 66 subsection A of § 18.2-61, § 18.2-63, subsection B of § 18.2-366, or an equivalent offense of another state,
 67 the United States, or any foreign jurisdiction, or who has been found by clear and convincing evidence to
 68 have engaged in the conduct prohibited by subsection A of § 18.2-61, § 18.2-63, or subsection B of
 69 § 18.2-366, whether or not the person has been charged with or convicted of the alleged violation, when the
 70 child who is the subject of the petition was conceived as a result of such violation or conduct. The authority
 71 of the juvenile court to consider a petition involving the custody of a child shall not be proscribed or limited
 72 where the child has previously been awarded to the custody of a local board of social services. For purposes
 73 of this title, a party with a legitimate interest shall also include a parent whose rights previously had been
 74 terminated, provided that the child whose custody or visitation is at issue (a) is at least 14 years of age; (b)
 75 has had a permanency goal previously achieved by adoption; (c) has had his adoptive parents die or, pursuant
 76 to § 16.1-277.02, each of such child's adoptive parents has permanently been relieved of custody of such
 77 child and each adoptive parent has had his parental rights terminated; and (d) is in the custody of a local
 78 board of social services, and provided that the parent whose rights had previously been terminated has (1)
 79 complied with the terms of any written post-adoption contact and communication agreement entered into
 80 pursuant to Article 1.1 (§ 63.2-1220.2 et seq.) of Chapter 12 of Title 63.2 and (2) maintained a positive,
 81 continuous relationship with the child since termination.

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

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

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

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

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

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

105 1. Who has been abused or neglected;

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

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

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

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

118 I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect

119 of children or with any violation of law that causes or tends to cause a child to come within the purview of
 120 this law, or with any other offense against the person of a child. In prosecution for felonies over which the
 121 court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause.

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

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

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

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

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

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

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

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

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

149 R. [Repealed.]

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

151 T. Petitions to enforce any request for information or subpoena that is not complied with or to review any
 152 refusal to issue a subpoena in an administrative appeal regarding child abuse and neglect pursuant to
 153 § 63.2-1526.

154 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to
 155 § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10 days
 156 of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible disposition.

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

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

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

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

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

178 Notwithstanding any other provision of law, the provisions of this subsection shall govern proceedings
 179 relating to consent for a minor's abortion. Court proceedings under this subsection and records of such
 180 proceedings shall be confidential. Such proceedings shall be given precedence over other pending matters so

181 that the court may reach a decision promptly and without delay in order to serve the best interests of the
182 minor. Court proceedings under this subsection shall be heard and decided as soon as practicable but in no
183 event later than four days after the petition is filed.

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

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

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

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

195 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent has
196 been obtained or the minor delivers to the physician a court order entered pursuant to this section and the
197 physician or his agent provides such notice as such order may require. However, neither consent nor judicial
198 authorization nor notice shall be required if the minor declares that she is abused or neglected and the
199 attending physician has reason to suspect that the minor may be an abused or neglected child as defined in
200 § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a medical
201 emergency, in which case the attending physician shall certify the facts justifying the exception in the minor's
202 medical record.

203 For purposes of this subsection:

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

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

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

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

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

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

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

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

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

239 Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of services
240 and support for persons who meet the eligibility criteria for the Fostering Futures program set forth in
241 § 63.2-919.

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

243 *and substantial risk orders.*

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

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

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

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

257 **§ 19.2-152.13. Emergency substantial risk order.**

258 A. *As used in this section:*

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

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

266 "*Department*" means the Department of State Police.

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

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

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

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

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

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

293 3. Any recent violation of any provision of a protective order issued pursuant to § 16.1-253, 16.1-253.1,
294 16.1-253.4, 16.1-278.14, 16.1-279.1, 19.2-152.8, or 19.2-152.10;

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

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

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

298 Such information may be alleged by the petitioner in his petition or may be offered through testimony at
299 such hearing by the petitioner or any witnesses he may call to support his position. The order shall contain a
300 statement (i) informing the person who is subject to the order of the requirements and penalties under
301 § 18.2-308.1:6, including that it is unlawful for such person to purchase, possess, or transport a firearm for
302 the duration of the order and that such person is required to surrender his concealed handgun permit if he
303 possesses such permit, and (ii) advising such person to voluntarily relinquish any firearm within his custody
304 to the law-enforcement agency that serves the order.

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

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

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

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

325 ~~G.~~ G. An emergency substantial risk order issued pursuant to this section is effective upon personal
326 service on the person who is subject to the order. The order shall be served forthwith after issuance. A copy
327 of the order, petition, and supporting affidavit shall be given to the person who is subject to the order together
328 with a notice informing the person that he has a right to a hearing under § 19.2-152.14 and may be
329 represented by counsel at the hearing. *When an emergency substantial risk order is issued against a minor, a*
330 *copy of the order shall be served on the parent or guardian of such minor at any address where such minor*
331 *resides, or the local board of social services in the case where such minor is the subject of a dependency or*
332 *court-approved out-of-home placement.*

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

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

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

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

362 *L. Notwithstanding the provisions of subsection F, any emergency substantial risk order issued pursuant*
363 *to this section shall remain in full force and effect pending any appeal.*

364 **§ 19.2-152.14. Substantial risk order.**

365 A. Not later than 14 days after the issuance of an emergency substantial risk order pursuant to
366 § 19.2-152.13, the circuit court, *general district court, or juvenile and domestic relations district court* for the

367 jurisdiction where the order was issued shall hold a hearing to determine whether a substantial risk order
 368 should be entered. *If the emergency substantial risk order pursuant to § 19.2-152.13 was issued by a*
 369 *magistrate, only the circuit court for the jurisdiction where the order was issued shall hold the hearing to*
 370 *determine whether a substantial risk order should be entered. If the emergency substantial risk order*
 371 *pursuant to § 19.2-152.13 was issued by the circuit court, general district court, or juvenile and domestic*
 372 *relations district court, the court that issued such order shall hold the hearing to determine whether a*
 373 *substantial risk order should be entered.* The attorney for the Commonwealth for the jurisdiction that issued
 374 the emergency substantial risk order shall represent the interests of the Commonwealth. Notice of the hearing
 375 shall be given to the person subject to the emergency substantial risk order and the attorney for the
 376 Commonwealth. Upon motion of the respondent and for good cause shown, the court may continue the
 377 hearing, provided that the order shall remain in effect until the hearing. The Commonwealth shall have the
 378 burden of proving all material facts by clear and convincing evidence. If the court finds by clear and
 379 convincing evidence that the person poses a substantial risk of personal injury to himself or to other
 380 individuals in the near future by such person's possession or acquisition of a firearm, the court shall issue a
 381 substantial risk order. Such order shall prohibit the person who is subject to the order from purchasing,
 382 possessing, or transporting a firearm for the duration of the order. In determining whether clear and
 383 convincing evidence for the issuance of an order exists, the judge shall consider any relevant evidence,
 384 including ~~any recent act of violence, force, or threat as defined in § 19.2-152.7:1 by such person directed~~
 385 ~~toward another person or toward himself but not limited to the factors in subdivisions B 1 through 6 of~~
 386 ~~§ 19.2-152.13.~~ The order shall contain a statement (i) informing the person who is subject to the order of the
 387 requirements and penalties under § 18.2-308.1:6, including that it is unlawful for such person to purchase,
 388 possess, or transport a firearm for the duration of the order and that such person is required to surrender his
 389 concealed handgun permit if he possesses such permit, and (ii) advising such person to voluntarily relinquish
 390 any firearm that has not been taken into custody to the law-enforcement agency that served the emergency
 391 substantial risk order. *When a substantial risk order is issued against a minor, a copy of the order shall be*
 392 *served on the parent or guardian of such minor at any address where such minor resides, or the local board*
 393 *of social services in the case where such minor is the subject of a dependency or court-approved out-of-home*
 394 *placement.*

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

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

404 C. The substantial risk order may be issued for a specified period of time up to a maximum of 180 days.
 405 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
 406 period if no date is specified. Prior to the expiration of the order, an attorney for the Commonwealth or a law-
 407 enforcement officer may file a written motion requesting a hearing to extend the order. Proceedings to extend
 408 an order shall be given precedence on the docket of the court. The court may extend the order for a period not
 409 longer than 180 days if the court finds by clear and convincing evidence that the person continues to pose a
 410 substantial risk of personal injury to himself or to other individuals in the near future by such person's
 411 possession or acquisition of a firearm at the time the request for an extension is made. The extension of the
 412 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
 413 if no date is specified. Nothing herein shall limit the number of extensions that may be requested or issued.
 414 The person who is subject to the order may file a motion to dissolve the order one time during the duration of
 415 the order; however, such motion may not be filed earlier than 30 days from the date the order was issued.

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

- 419 1. The person subject to the order and the transferee appear at the hearing;
- 420 2. At the hearing, the attorney for the Commonwealth advises the court that a law-enforcement agency has
 421 determined that the transferee is not prohibited from possessing or transporting a firearm;
- 422 3. The transferee does not reside with the person subject to the order;
- 423 4. The court informs the transferee of the requirements and penalties under § 18.2-308.2:1; and
- 424 5. The court, after considering all relevant factors and any evidence or testimony from the person subject
 425 to the order, approves the transfer of the firearm subject to such restrictions as the court deems necessary.

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

428 E. *If a person other than the respondent claims title to any firearms surrendered pursuant to*

429 § 19.2-152.13 or this section, and that person is determined by the law-enforcement agency to be the lawful
430 owner of the firearm, the firearm shall be returned to that person, provided that:

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

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

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

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

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

462 **§ 19.2-152.16. False statement to law-enforcement officer, etc.; penalty.**

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