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HOUSE BILL NO. 748

Offered January 13, 2010

Prefiled January 12, 2010

A BILL to amend and reenact §§ 16.1-241, 16.1-296, 16.1-298, and 17.1-405 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-296.3, relating to termination of parental rights; appeals.

Patrons—Toscano, Landes and Sickles

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 16.1-296, 16.1-298, and 17.1-405 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-296.3 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; and~~

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

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 14 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 14 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

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59 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

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

76 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
77 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the involuntary admission of a person
78 with mental illness or judicial certification of eligibility for admission to a training center for persons
79 with mental retardation in accordance with the provisions of Chapters 1 (§ 37.2-100 et seq.) and 8
80 (§ 37.2-800 et seq.) of Title 37.2. Jurisdiction of the involuntary admission and certification of adults
81 shall be concurrent with the general district court.

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

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

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

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

95 1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or 16.1-279.1.

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

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

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

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

R. Petitions for the purpose of obtaining an emergency protective order pursuant to § 16.1-253.4.

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 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 (i) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful, and (ii) 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

182 perform the abortion without consent of or notice to an authorized person.

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

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

194 For purposes of this subsection:

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

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

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

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

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

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

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

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

227 X. Petitions filed pursuant to § 18.2-370.5 for an order allowing the petitioner to enter and be present
228 on school or child day center property. In such cases jurisdiction shall be concurrent with and not
229 exclusive of circuit courts.

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

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

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

237 § 16.1-296. Jurisdiction of appeals; procedure.

238 A. From any final order or judgment of the juvenile court affecting the rights or interests of any
239 person coming within its jurisdiction, an appeal may be taken to the circuit court within 10 days from
240 the entry of a final judgment, order or conviction and shall be heard de novo. However, in a case
241 arising under the Uniform Interstate Family Support Act (§ 20-88.32 et seq.), a party may take an appeal
242 pursuant to this section within 30 days from entry of a final order or judgment. Protective orders issued
243 pursuant to § 16.1-279.1 in cases of family abuse and orders entered pursuant to § 16.1-278.2 are final

orders from which an appeal may be taken. *The provisions of § 16.1-296.3 shall govern the appeal of any final order or judgment in (i) cases involving termination of parental rights pursuant to § 16.1-283 and (ii) cases brought pursuant to § 16.1-282.1 on a petition seeking approval of a permanency plan with the goal of adoption when the court has also ordered termination of parental rights for the same child.*

B. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the attorney for the Commonwealth a report incorporating the results of any investigation conducted pursuant to § 16.1-273, which shall be confidential in nature and made available only to the court and the attorney for the defendant (i) after the guilt or innocence of the accused has been determined or (ii) after the court has made its findings on the issues subject to appeal. After final determination of the case, the report and all copies thereof shall be forthwith returned to such juvenile court.

C. Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-278.8, trial by jury on the issue of guilt or innocence of the alleged delinquent act may be had on motion of the child, the attorney for the Commonwealth or the circuit court judge. If the alleged delinquent act is one which, if committed by an adult, would constitute a felony, the child shall be entitled to a jury of 12 persons. In all other cases, the jury shall consist of seven persons. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-278.8 after taking into consideration the report of any investigation made pursuant to § 16.1-237 or 16.1-273.

C1. In any hearing held upon an appeal taken by a child on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8, the provisions of § 16.1-302 shall apply mutatis mutandis, except in the case of trial by jury which shall be open. If proceedings in the circuit court are closed pursuant to this subsection, any records or portions thereof relating to such closed proceedings shall remain confidential.

C2. Where an appeal is taken by a juvenile on a finding that he is delinquent and on a disposition pursuant to § 16.1-278.8 and the juvenile is in a secure facility pending the appeal, the circuit court, when practicable, shall hold a hearing on the merits of the case within 45 days of the filing of the appeal. Upon receipt of the notice of appeal from the juvenile court, the circuit court shall provide a copy of the order and a copy of the notice of appeal to the attorney for the Commonwealth within seven days after receipt of notice of an appeal. The time limitations shall be tolled during any period in which the juvenile has escaped from custody. A juvenile held continuously in secure detention shall be released from confinement if there is no hearing on the merits of his case within 45 days of the filing of the appeal. The circuit court may extend the time limitations for a reasonable period of time based upon good cause shown, provided the basis for such extension is recorded in writing and filed among the papers of the proceedings.

~~D. When an appeal is taken in a case involving termination of parental rights brought under § 16.1-283, the circuit court shall hold a hearing on the merits of the case within 90 days of the perfecting of the appeal. An appeal of the case to the Court of Appeals shall take precedence on the docket of the Court.~~

~~E. Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 (§ 20-61 et seq.) of Title 20.~~

~~FE. In all other cases on appeal, proceedings in the circuit court shall be heard without a jury; however, hearing of an issue by an advisory jury may be allowed, in the discretion of the judge, upon the motion of any party. An appeal from an order of protection issued pursuant to § 16.1-279.1 shall be given precedence on the docket of the court over other civil appeals taken to the circuit court from the district courts, but shall otherwise be docketed and processed as other civil cases.~~

~~GF. Costs, taxes and fees on appealed cases shall be assessed only in those cases in which a trial fee could have been assessed in the juvenile and domestic relations court and shall be collected in the circuit court, except that the appeal to circuit court of any case in which a fee either was or could have been assessed pursuant to § 16.1-69.48:5 shall also be in accordance with § 16.1-296.2.~~

~~HG. No appeal bond shall be required of a party appealing from an order of a juvenile and domestic relations district court except for that portion of any order or judgment establishing a support arrearage or suspending payment of support during pendency of an appeal. In cases involving support, no appeal shall be allowed until the party applying for the same or someone for him gives bond, in an amount and with sufficient surety approved by the judge or by his clerk if there is one, to abide by such judgment as may be rendered on appeal if the appeal is perfected or, if not perfected, then to satisfy the judgment of the court in which it was rendered. Upon appeal from a conviction for failure to support or from a finding of civil or criminal contempt involving a failure to support, the juvenile and domestic relations~~

district court may require the party applying for the appeal or someone for him to give bond, with or without surety, to insure his appearance and may also require bond in an amount and with sufficient surety to secure the payment of prospective support accruing during the pendency of the appeal. An appeal will not be perfected unless such appeal bond as may be required is filed within 30 days from the entry of the final judgment or order. However, no appeal bond shall be required of the Commonwealth or when an appeal is proper to protect the estate of a decedent, an infant, a convict or an insane person, or the interest of a county, city or town.

If bond is furnished by or on behalf of any party against whom judgment has been rendered for money, the bond shall be conditioned for the performance and satisfaction of such judgment or order as may be entered against the party on appeal, and for the payment of all damages which may be awarded against him in the appellate court. If the appeal is by a party against whom there is no recovery, the bond shall be conditioned for the payment of any damages as may be awarded against him on the appeal. The provisions of § 16.1-109 shall apply to bonds required pursuant to this subsection.

This subsection shall not apply to release on bail pursuant to other subsections of this section or § 16.1-298.

HH. In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court. Unless otherwise specifically provided by this Code, the circuit court judge shall have the authority to appoint counsel for the parties and compensate such counsel in accordance with the provisions of Article 6 (§ 16.1-266 et seq.) of this chapter.

H. In any case which has been referred or transferred from a circuit court to a juvenile court and an appeal is taken from an order or judgment of the juvenile court, the appeal shall be taken to the circuit court in the same locality as the juvenile court to which the case had been referred or transferred.

§ 16.1-296.3. Appeals to Court of Appeals.

From any final order or judgment of the juvenile court entered (i) pursuant to § 16.1-283 on a petition seeking termination of residual parental rights and (ii) pursuant to § 16.1-282.1 on a petition seeking approval of a permanency plan with the goal of adoption when the court has also ordered termination of parental rights for the same child, an appeal may be taken to the Court of Appeals as provided in § 17.1-405. The provisions of Title 8.01, Title 20, and the Rules of the Supreme Court of Virginia governing appeals of civil actions shall apply to appeals taken pursuant to this section.

The juvenile court shall ensure that provisions are made for recording any proceeding adjudicating a petition for termination of parental rights pursuant to § 16.1-283 and a petition seeking approval of a permanency plan with the goal of adoption pursuant to § 16.1-282.1. Upon request of counsel for the parent, the juvenile court shall make available a transcript of the proceeding without a fee when (i) the parent is deemed indigent pursuant to § 19.2-159 and (ii) the parent has noted an appeal of the court's order pursuant to this section.

An appeal pursuant to this section shall be given precedence on the docket of the Court of Appeals.

§ 16.1-298. Effect of petition for or pendency of appeal; bail.

A. Except as provided herein, a petition for or the pendency of an appeal or writ of error shall not suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court or a judge or justice thereof.

B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the pendency of an appeal or writ of error:

1. In cases of delinquency in which the final order of the juvenile court is pursuant to subdivision 8, 9, 10, 12, 14, or 15 of § 16.1-278.8.

2. In cases involving a child and any local ordinance.

3. In cases involving any person over the age of ~~eighteen~~ 18 years.

4. In cases involving (i) termination of parental rights pursuant to § 16.1-283 and (ii) approval of a permanency plan pursuant to § 16.1-282.1 with the goal of adoption when the court has also ordered termination of parental rights for the same child.

Such suspension as is provided for in this subsection shall not apply to (i) an order for support of a spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-253, (ii) an order disposing of a motion to reconsider relating to participation in continuing programs pursuant to § 16.1-289.1, (iii) a protective order in cases of family abuse issued pursuant to § 16.1-279.1 or a protective order entered in conjunction with a disposition pursuant to § 16.1-278.2, 16.1-278.4, 16.1-278.5, 16.1-278.6 or 16.1-278.8, (iv) a protective order issued pursuant to § 19.2-152.10, or (v) an order pertaining to the custody, visitation, or placement of a minor child, unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Court of Appeals or the Supreme Court.

C. In cases where the order of the juvenile court is suspended pursuant to subsection B hereof or by

order of the juvenile court or the circuit court, bail may be required as provided for in § 16.1-135.

D. If an appeal to the circuit court is withdrawn in accordance with § 16.1-106.1, the judgment, order, or decree rendered by the juvenile court shall have the same legal effect as if no appeal had been noted, except as to the disposition of any bond in circuit court or as modified by the circuit court pursuant to subsection F of § 16.1-106.1. If an appeal is withdrawn, any court-appointed counsel or court-appointed guardian ad litem shall, absent further order of the court, be relieved of any further obligation respecting the matter for which they were appointed.

E. Except as to matters pending on the docket of a circuit court as of July 1, 2008, all orders that were entered by a juvenile and domestic relations district court prior to July 1, 2008, and appealed to a circuit court, where the appeal was withdrawn, shall have the same effect as if no appeal had been noted.

§ 17.1-405. Appellate jurisdiction - Administrative agency, Virginia Workers' Compensation Commission, and domestic relations appeals.

Any aggrieved party may appeal to the Court of Appeals from:

1. Any final decision of a circuit court on appeal from (i) a decision of an administrative agency, or (ii) a grievance hearing decision issued pursuant to § 2.2-3005;

2. Any final decision of the Virginia Workers' Compensation Commission;

3. Any final judgment, order, or decree of a circuit court involving:

a. Affirmance or annulment of a marriage;

b. Divorce;

c. Custody;

d. Spousal or child support;

e. The control or disposition of a child;

f. Any other domestic relations matter arising under Title 16.1 or Title 20;

g. Adoption under Chapter 12 (§ 63.2-1200 et seq.) of Title 63.2; or

h. A final grievance hearing decision issued pursuant to subsection B of § 2.2-3007.;

4. Any final order or judgment of a juvenile and domestic relations district court entered (i) pursuant to § 16.1-283 on a petition seeking termination of parental rights and (ii) pursuant to § 16.1-282.1 on a petition seeking approval of a permanency plan with the goal of adoption when the court has also ordered termination of parental rights for the same child; or

5. Any interlocutory decree or order entered in any of the cases listed in this section (i) granting, dissolving, or denying an injunction or (ii) adjudicating the principles of a cause.