

LD6551358

HOUSE BILL NO. 885

Offered January 25, 1994

A BILL to amend and reenact § 16.1-241, as it is now in effect and as it may become effective on July 1, 1995, of the Code of Virginia, relating to jurisdiction of family or juvenile courts.

Patrons—Mims, Cunningham, Davies, Fisher, Forbes, Hargrove, Harris, Ingram, Katzen, Martin, May, McDonnell, Scott and Sherwood; Senators: Howell, Waddell and Woods

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-241, as it is now in effect and as it may become effective on July 1, 1995, of the Code of Virginia is amended and reenacted as follows:

§ 16.1-241. (For effective date - See note) Jurisdiction.

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;

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 § 63.1-56 or § 63.1-204 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.

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, stepparents, former stepparents, blood relatives and family members. *A party with a legitimate interest shall not include any person whose parental rights have been involuntarily terminated by court order if the child subsequently has been legally adopted.* 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.

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.) of this chapter and the commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

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

D. Judicial consent for emergency surgical or medical treatment for a child who is neither married nor has ever been married, when the consent of his parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person

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60 standing in loco parentis (i) is not a resident of this Commonwealth, (ii) his whereabouts is
61 unknown cannot be located, (iii) he cannot be consulted with promptness, reasonable under the
62 circumstances or (iv) fails has failed to give such consent or provide such treatment when requested by
63 the judge to do so.

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

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

67 1. Who has been abused or neglected;

68 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204
69 or is otherwise before the court pursuant to subdivision A 4 of this section;

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

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

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

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

85 J. All offenses in which one family or household member is charged with an offense in which
86 another family or household member is the victim. In prosecution for felonies over which the court has
87 jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. For
88 purposes of this subsection, "family or household member," as defined in § 16.1-228, shall also be
89 construed to include parent and child, stepparent and stepchild, brothers and sisters, and grandparent and
90 grandchild, regardless of whether such persons reside in the same home.

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

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

98 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
99 § 16.1-279.1.

100 N. Any person who escapes or remains away without proper authority from a residential care facility
101 in which he had been placed by the court or as a result of his commitment to the Virginia Department
102 of Youth and Family Services.

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

104 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
105 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
106 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the
107 juvenile and domestic relations district court.

108 Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

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

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

112 § 16.1-241. (Delayed effective date - See notes) Jurisdiction.

113 The judges of the family court elected or appointed under this law shall be conservators of the peace
114 within the corporate limits of the cities and the boundaries of the counties for which they are
115 respectively chosen and within one mile beyond the limits of such cities and counties. Except as
116 hereinafter provided, each family court shall have, within the limits of the territory for which it is
117 created, exclusive original jurisdiction, and within one mile beyond the limits of said city or county,
118 concurrent jurisdiction with the family court or courts of the adjoining city or county over all cases,
119 matters and proceedings involving:

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

121 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status

offender, or delinquent;

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;

4. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 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;

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

The authority of the family 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, stepparents, former stepparents, blood relatives and family members. *A party with a legitimate interest shall not include any person whose parental rights have been terminated by court order if the child subsequently has been legally adopted.* The authority of the family 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.

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.) of this chapter and the commitment of a mentally ill person or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1. Jurisdiction of the commitment and certification of adults shall be concurrent with the general district court.

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

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

E. Any person charged with deserting, abandoning or failing to provide support for any person in violation of law pursuant to Chapter 5 (§ 20-61 et seq.) of Title 20.

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

1. Who has been abused or neglected;

2. Who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or is otherwise before the court pursuant to subdivision A 4 of this section;

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

G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services which are required by law to be provided for that child or such child's parent, guardian, legal custodian or other person standing in loco parentis.

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

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

J. All offenses in which one family or household member is charged with an offense in which another family or household member is the victim. In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. For purposes of this subsection, "family or household member," as defined in § 16.1-228, shall also be construed to include parent and child, stepparent and stepchild, brothers and sisters, and grandparent and

183 grandchild, regardless of whether such persons reside in the same home.

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

188 L. Any person who seeks spousal support after having separated from his spouse.

189 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
190 § 16.1-279.1.

191 N. Any person who escapes or remains away without proper authority from a residential care facility
192 in which he had been placed by the court or as a result of his commitment to the Virginia Department
193 of Youth and Family Services.

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

195 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
196 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
197 by a family court upon the filing of a certified copy of such order in the family court.

198 Q. Petitions for a determination of parentage pursuant to Chapter 3.1 (§ 20-49.1 et seq.) of Title 20.

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

200 S. Suits for divorce and for annulling or affirming marriage in accordance with Title 20.

201 T. Suits for separate maintenance.

202 U. Suits for equitable distribution based on a foreign decree in accordance with § 20-107.3.

203 V. Petitions for adoption.

204 W. Petitions for change of name when incident to suits for annulling or affirming marriage, divorce,
205 or adoption or when ancillary to any action within the jurisdiction of the family court.

206 X. Petitions regarding records of birth pursuant to Chapter 7 (§ 32.1-249 et seq.) of Title 32.1.

207 Y. Judicial review of school board actions pursuant to § 22.1-87 and of hearing officer decisions
208 pursuant to §§ 22.1-214 and 22.1-214.1.

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