

LD7627428

## HOUSE BILL NO. 1929

House Amendments in [ ] — February 7, 1995

*A BILL to amend and reenact §§ 16.1-123.1 and 16.1-241, as it is effective and as it may become effective, of the Code of Virginia, relating to jurisdiction of the juvenile and domestic relations district court.*

Patrons—Reynolds, Armstrong, Clement, Crouch and Dudley; Senator: Hawkins

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 16.1-123.1 and 16.1-241, as it is effective and as it may become effective, of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-123.1. Criminal and traffic jurisdiction of general district courts.

1. Each general district court shall have, within the county, including the towns within such county, or city for which it is established, exclusive original jurisdiction for the trial of:

a. All offenses against the ordinances, laws and bylaws of such county, including the towns within such county, or city or of any service district within such county or city, except a city ordinance enacted pursuant to §§ 18.2-372 through 18.2-391.1. All offenses against the ordinances of a service district shall be prosecuted in the name of such service district;

b. All other misdemeanors and traffic infractions arising in such county, including the towns in such county, or city.

2. Each general district court which is established within a city shall also have:

a. Concurrent jurisdiction with the circuit court of such city for all violations of state revenue and election laws; and

b. Exclusive original jurisdiction, except as otherwise provided by general law or the city charter, within the area extending for one mile beyond the corporate limits thereof, for the trial of all offenses against the ordinances, laws and bylaws of the city.

3. If a city lying within a county has no general district court provided by city charter or under general law, then the general district court of the county within which such city lies shall have the same jurisdiction in such city as a general district court established for a city would have.

4. Each general district court shall have such other jurisdiction, exclusive or concurrent, as may be conferred on such court by general law or by provisions of the charter of the city for which the court was established.

5. Nothing herein shall affect the jurisdiction conferred on the juvenile and domestic relations district court and the general district court by Chapter 11 (§ 16.1-226 et seq.) of this title.

§ 16.1-241. 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, except where the jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6;

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

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60 in § 16.1-244;

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

62 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,  
63 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,  
64 father or legal guardian but shall include petitions filed at any time by any party with a legitimate  
65 interest therein. A party with a legitimate interest shall be broadly construed and shall include, but not  
66 be limited to, grandparents, stepparents, former stepparents, blood relatives and family members. A party  
67 with a legitimate interest shall not include any person (i) whose parental rights have been involuntarily  
68 terminated by court order if the child subsequently has been legally adopted, or (ii) who has been  
69 convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366 when the child who  
70 is the subject of the petition was conceived as a result of such violation. The authority of the juvenile  
71 court to consider a petition involving the custody of a child shall not be proscribed or limited where the  
72 child has previously been awarded to the custody of a local board of social services.

73 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the  
74 provisions of Article 16 (§ 16.1-335 et seq.) of this chapter and the commitment of a mentally ill person  
75 or judicial certification of eligibility for admission to a treatment facility of a mentally retarded person  
76 in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1.  
77 Jurisdiction of the commitment and certification of adults shall be concurrent with the general district  
78 court.

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

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

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

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

92 1. Who has been abused or neglected;

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

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

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

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

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

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

112 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
113 determining whether or not there is probable cause. For purposes of this subsection, "family or  
114 household member," as defined in § 16.1-228, shall also be construed to include parent and child,  
115 stepparent and stepchild, brothers and sisters, and grandparent and grandchild, regardless of whether  
116 such persons reside in the same home.

117 *For the purposes of this subsection, the juvenile and domestic relations district court shall have*  
118 *preferred jurisdiction [ and the general district court shall have concurrent jurisdiction ]. Any objection*  
119 *based on preferred jurisdiction under this subsection shall be made before the trial or [ prior to the*  
120 *conclusion of the preliminary ] hearing is commenced or it shall be conclusively waived for all*  
121 *purposes. No defect in a [ felony ] preliminary hearing under this subsection shall affect or be grounds*

for challenging directly or collaterally the jurisdiction of the circuit 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 Youth and Family Services.

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 13 (§ 63.1-249 et seq.) of Title 63.1, 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.

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

S. Petitions filed by school boards against a parent pursuant to § 16.1-241.2.

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

§ 16.1-241. (Delayed effective date) Jurisdiction.

The judges of the family 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 family 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 family 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 family court has been terminated under the provisions of § 16.1-269.6;

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 (i) whose parental rights have been involuntarily terminated by court order if the child subsequently has been legally adopted, or (ii) who has been convicted of a violation of subsection A of § 18.2-61 or subsection B of § 18.2-366 when the child who is the subject of the petition was conceived as a result of such violation. 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.

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

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

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

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

196 1. Who has been abused or neglected;

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

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

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

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

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

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

215 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to  
216 determining whether or not there is probable cause. For purposes of this subsection, "family or  
217 household member," as defined in § 16.1-228, shall also be construed to include parent and child,  
218 stepparent and stepchild, brothers and sisters, and grandparent and grandchild, regardless of whether  
219 such persons reside in the same home.

220 *For the purposes of this subsection, the family court shall have preferred jurisdiction [ ~~and the~~*  
221 *general district court shall have concurrent jurisdiction* ]. Any objection based on preferred jurisdiction  
222 under this subsection shall be made before the trial or [ *prior to the conclusion of the preliminary* ]  
223 *hearing is commenced or it shall be conclusively waived for all purposes. No defect in a [ felony ]*  
224 *preliminary hearing under this subsection shall affect or be grounds for challenging directly or*  
225 *collaterally the jurisdiction of the circuit court in which the case is tried.*

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

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

231 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or  
232 § 16.1-279.1.

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

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

237 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13  
238 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered  
239 by a family court upon the filing of a certified copy of such order in the family court.

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

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

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

243 T. Suits for separate maintenance.

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

245 V. Petitions for adoption.

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

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

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

251 Z. Petitions filed by school boards against a parent pursuant to § 16.1-241.2.

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

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