

LD5834204

HOUSE BILL NO. 2137

Offered January 23, 1995

A BILL to amend and reenact § 16.1-241, as it is currently effective and as it may become effective, and §§ 16.1-241.2 and 22.1-1 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 22.1-279.3, relating to parental responsibility for and involvement in students' education and proceedings against certain parents.

Patrons—Diamonstein, Almand, Armstrong, Behm, Bennett, Brickley, Cooper, Council, Croshaw, Davies, Deeds, Dillard, Grayson, Hull, Moore, Plum, Reynolds and Scott; Senators: Houck, Saslaw 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 currently effective and as it may become effective, and §§ 16.1-241.2 and 22.1-1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 22.1-279.3 as follows:

§ 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 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 (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 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.

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

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

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

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

73 1. Who has been abused or neglected;

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

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

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

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

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

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

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

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

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

105 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
106 § 16.1-279.1.

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

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

111 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
112 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
113 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the
114 juvenile and domestic relations district court.

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

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

117 S. Petitions filed by school boards against a ~~parent~~ *parents* pursuant to §§ 16.1-241.2 and
118 22.1-279.3.

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

121 § 16.1-241. (For effective date — See note) 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.

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, (iii) cannot be consulted with promptness, reasonable under the circumstances or (iv) fails 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

183 parents, legal guardian or other person standing in loco parentis.

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

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

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

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

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

201 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1 or
202 § 16.1-279.1.

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

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

207 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 13
208 (§ 63.1-249 et seq.) of Title 63.1, or by another state in the same manner as if the orders were entered
209 by a family court upon the filing of a certified copy of such order in the family court.

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

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

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

213 T. Suits for separate maintenance.

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

215 V. Petitions for adoption.

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

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

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

221 Z. Petitions filed by school boards against a ~~parent~~ *parents* pursuant to §§ 16.1-241.2 *and*
222 *22.1-279.3*.

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

225 § 16.1-241.2. Proceedings against certain parents.

226 A. Upon the failure of a parent to comply with the provisions of § ~~22.1-276.01~~ *22.1-279.3*, the
227 school board may, by petition to the juvenile and domestic relations court, proceed against such parent
228 for willful and unreasonable refusal to participate in efforts to improve the student's behavior as follows:

229 1. If the court finds that the parent has willfully and unreasonably failed to return the statement
230 required by subsection C of § ~~22.1-276.01~~ *22.1-279.3*, it may impose a civil penalty not to exceed \$50;

231 2. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a
232 request of the principal as set forth in subsection D of § ~~22.1-276.01~~ *22.1-279.3*, to review the school
233 board's standards of student conduct and the parent's responsibility to assist the school in disciplining the
234 student and maintaining order and to discuss improvement of the child's behavior and educational
235 progress, it may order the parent to so meet; or

236 3. If the court finds that the parent has willfully and unreasonably failed to accompany a suspended
237 student to meet with school officials pursuant to subsection F of § ~~22.1-276.01~~ *22.1-279.3*, or upon the
238 student receiving a second suspension or being expelled, it may order (i) the student or his parent to
239 participate in such programs or such treatment as the court deems appropriate to improve the student's
240 behavior or (ii) the student or his parent to be subject to such conditions and limitations as the court
241 deems appropriate for the supervision, care, and rehabilitation of the student or his parent; in addition,
242 the court may order the parent to pay a civil penalty not to exceed \$500.

243 The court shall not use its contempt power to enforce any order entered under this section.

244 B. The civil penalties established pursuant to this section shall be enforceable in the juvenile and

domestic relations court or its successor in interest in which the student's school is located and shall be paid into a fund maintained by the appropriate local governing body to support programs or treatments designed to improve the behavior of students as described in ~~clause (iii)~~ subdivision 3 of subsection G of § ~~22.1-276.01~~ 22.1-279.3. Upon the failure to pay any civil penalties imposed by this section and § ~~22.1-276.01~~ 22.1-279.3, the attorney for the appropriate county, city, or town shall enforce the collection of such civil penalties.

C. For the purposes of this section and § ~~22.1-276.01~~ 22.1-279.3, "parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

§ 22.1-1. Definitions.

As used in this title unless the context requires otherwise or it is otherwise specifically provided:

"Board" or "State Board" means the Board of Education.

"Division superintendent" means the division superintendent of schools of a school division.

"Elementary" includes kindergarten.

"Elementary and secondary" and "elementary or secondary" includes elementary, middle, and high school grades.

"Middle school" means separate schools for early adolescents and the middle school grades that might be housed at elementary or high schools.

"Parent" or "parents" means any parent, guardian, legal custodian, or other person having control or charge of a child.

"Person of school age" means a person who will have reached his fifth birthday on or before September 30 of the school year and who has not reached twenty years of age on or before August 1 of the school year.

"School board" means the school board of a school division.

§ 22.1-279.3. Parental responsibility and involvement requirements.

A. Each parent of a student enrolled in a public school has a duty to assist the school in enforcing the standards of student conduct and attendance in order that education may be conducted in an atmosphere free of disruption and threat to persons or property, and supportive of individual rights.

B. A school board shall provide opportunities for parental and community involvement in every school in the school division.

C. Within one calendar month of the opening of school, each school board shall, simultaneously with any other materials customarily distributed at that time, send to the parents of each enrolled student (i) a notice of the requirements of this section and (ii) a copy of the school board's standards of student conduct.

Each parent of a student shall sign and return to the school in which the student is enrolled a statement acknowledging the requirements of the school board's standards of student conduct and recognizing his responsibility to assist the school in disciplining the student and maintaining order, and acknowledging that failure to so participate could result in court action against the student and the parent. Each school shall maintain records of such signed statements.

D. The principal of a student's school may request the parent to meet with the school's principal or his designee to review the school board's standards of student conduct and the parent's responsibility to participate with the school in disciplining the student and maintaining order, and to discuss improvement of the child's behavior and educational progress.

E. Pursuant to § 22.1-277 and the guidelines required by § 22.1-278, the school principal shall notify the parents of any student who violates a school board policy when such violation could result in the student's suspension. The notice shall state (i) the date and particulars of the violation; (ii) the obligation of the parent to take actions to assist the school in improving the student's behavior; (iii) that, if the student is suspended, the parent may be required to accompany the student to meet with school officials; and (iv) that, upon the failure of a parent to meet with school officials, the school board may petition the juvenile and domestic relations court to compel the parent to so meet.

F. No suspended student shall be admitted to the regular school program until such student and his parent have met with school officials to discuss improvement of the student's behavior, unless the school principal or his designee determines that special circumstances exist and that readmission of the student is appropriate.

G. Upon the failure of a parent to comply with the provisions of this section, the school board may, by petition to the juvenile and domestic relations court, proceed against such parent for willful and unreasonable refusal to participate in efforts to improve the student's behavior, as follows:

1. If the court finds that the parent has willfully and unreasonably failed to return the statement required by subsection C of this section, it may impose a civil penalty not to exceed \$50;

2. If the court finds that the parent has willfully and unreasonably failed to meet, pursuant to a request of the principal as set forth in subsection D of this section, to review the school board's standards of student conduct and the parent's responsibility to assist the school in disciplining the

306 student and maintaining order, and to discuss improvement of the child's behavior and educational
307 progress, it may order the parent to so meet; or

308 3. If the court finds that the parent has willfully and unreasonably failed to accompany a suspended
309 student to meet with school officials pursuant to subsection F, or upon the student's receiving a second
310 suspension or being expelled, it may order (i) the student or his parent to participate in such programs
311 or such treatment as the court deems appropriate to improve the student's behavior or (ii) the student or
312 his parent to be subject to such conditions and limitations as the court deems appropriate for the
313 supervision, care, and rehabilitation of the student or his parent; in addition, the court may order the
314 parent to pay a civil penalty not to exceed \$500.

315 The court shall not use its contempt power to enforce any order entered under this section.

316 H. The civil penalties established pursuant to this section shall be enforceable in the juvenile and
317 domestic relations court in which the student's school is located and shall be paid into a fund
318 maintained by the appropriate local governing body to support programs or treatments designed to
319 improve the behavior of students as described in subdivision 3 of subsection G. Upon the failure to pay
320 the civil penalties imposed by this section, the attorney for the appropriate county, city, or town shall
321 enforce the collection of such civil penalties.

322 I. All references in this section to the juvenile and domestic relations court shall be also deemed to
323 mean any successor in interest of such court.