

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 16.1-241 of the Code of Virginia, relating to special immigrant juvenile*  
 3 *status; jurisdiction.*

4 [S 1181]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 16.1-241 of the Code of Virginia is amended and reenacted as follows:**8 **§ 16.1-241. Jurisdiction; consent for abortion.**

9 The judges of the juvenile and domestic relations district court elected or appointed under this law  
 10 shall be conservators of the peace within the corporate limits of the cities and the boundaries of the  
 11 counties for which they are respectively chosen and within one mile beyond the limits of such cities and  
 12 counties. Except as hereinafter provided, each juvenile and domestic relations district court shall have,  
 13 within the limits of the territory for which it is created, exclusive original jurisdiction, and within one  
 14 mile beyond the limits of said city or county, concurrent jurisdiction with the juvenile court or courts of  
 15 the adjoining city or county, over all cases, matters and proceedings involving:

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

17 1. Who is alleged to be abused, neglected, in need of services, in need of supervision, a status  
 18 offender, or delinquent except where the jurisdiction of the juvenile court has been terminated or  
 19 divested;

20 2. Who is abandoned by his parent or other custodian or who by reason of the absence or physical  
 21 or mental incapacity of his parents is without parental care and guardianship;

22 2a. Who is at risk of being abused or neglected by a parent or custodian who has been adjudicated  
 23 as having abused or neglected another child in the care of the parent or custodian;

24 3. Whose custody, visitation or support is a subject of controversy or requires determination. In such  
 25 cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, except  
 26 as provided in § 16.1-244;

27 4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-1817  
 28 or whose parent or parents for good cause desire to be relieved of his care and custody;

29 5. Where the termination of residual parental rights and responsibilities is sought. In such cases  
 30 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided  
 31 in § 16.1-244;

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

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

34 In any case in which the juvenile is alleged to have committed a violent juvenile felony enumerated  
 35 in subsection B of § 16.1-269.1, and for any charges ancillary thereto, the jurisdiction of the juvenile  
 36 court shall be limited to conducting a preliminary hearing to determine if there is probable cause to  
 37 believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at  
 38 the time of the commission of the alleged offense, and any matters related thereto. In any case in which  
 39 the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of  
 40 § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given  
 41 notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited  
 42 to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile  
 43 committed the act alleged and that the juvenile was 16 years of age or older at the time of the  
 44 commission of the alleged offense, and any matters related thereto. A determination by the juvenile  
 45 court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge  
 46 to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge.  
 47 In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile  
 48 court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as  
 49 provided in § 16.1-269.6.

50 In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a  
 51 violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a  
 52 lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be  
 53 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

54 The authority of the juvenile court to adjudicate matters involving the custody, visitation, support,  
 55 control or disposition of a child shall not be limited to the consideration of petitions filed by a mother,  
 56 father or legal guardian but shall include petitions filed at any time by any party with a legitimate

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

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

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.) and the involuntary admission of a person with mental  
78 illness or judicial certification of eligibility for admission to a training center for persons with  
79 intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.  
80 Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general  
81 district court.

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

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

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

128 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1,  
129 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection  
130 pursuant to § 19.2-152.8, 19.2-152.9, or 19.2-152.10 if either the alleged victim or the respondent is a  
131 juvenile.

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

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

136 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19  
137 (§ 63.2-1900 et seq.) of Title 63.2, or by another state in the same manner as if the orders were entered  
138 by a juvenile and domestic relations district court upon the filing of a certified copy of such order in the  
139 juvenile and domestic relations district court.

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

142 R. [Repealed.]

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

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

147 U. Petitions filed in connection with parental placement adoption consent hearings pursuant to  
148 § 63.2-1233. Such proceedings shall be advanced on the docket so as to be heard by the court within 10  
149 days of filing of the petition, or as soon thereafter as practicable so as to provide the earliest possible  
150 disposition.

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

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

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

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

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

174 Notwithstanding any other provision of law, the provisions of this subsection shall govern  
175 proceedings relating to consent for a minor's abortion. Court proceedings under this subsection and  
176 records of such proceedings shall be confidential. Such proceedings shall be given precedence over other  
177 pending matters so that the court may reach a decision promptly and without delay in order to serve the  
178 best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon

179 as practicable but in no event later than four days after the petition is filed.

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

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

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

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

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

200 For purposes of this subsection:

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

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

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

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

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

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

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

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

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

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

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

240 Notwithstanding any other provision of law, no fees shall be charged by a sheriff for the service of  
241 any process in a proceeding pursuant to subdivision A 3, except as provided in subdivision A 6 of  
242 § 17.1-272, or subsection B, D, M, or R.

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

**ENROLLED**

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