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SENATE BILL NO. 1284

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 9.1-151, 16.1-241, 18.2-71, 18.2-75, 32.1-133.1, and 54.1-2969 of the Code of Virginia and to repeal §§ 18.2-71.1 through 18.2-74.1, 18.2-76, and 32.1-92.2 of the Code of Virginia, relating to abortion prohibited; exceptions; penalty.

Patrons—Hackworth, Newman, Chase, Obenshain, Peake, Reeves and Stanley

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-151, 16.1-241, 18.2-71, 18.2-75, 32.1-133.1, and 54.1-2969 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-151. Court-Appointed Special Advocate Program; appointment of advisory committee.

A. There is established a Court-Appointed Special Advocate Program (the Program) that shall be administered by the Department. The Program shall provide services in accordance with this article to children who are subjects of judicial proceedings (i) involving allegations that the child is abused, neglected, in need of services, or in need of supervision or (ii) for the restoration of parental rights pursuant to § 16.1-283.2 and for whom the juvenile and domestic relations district court judge determines such services are appropriate. Court-Appointed Special Advocate volunteer appointments may continue for youth 18 years of age and older who are in foster care if the court has retained jurisdiction pursuant to subsection Z Y of § 16.1-241 or § 16.1-242 and the juvenile and domestic relations district court judge determines such services are appropriate. The Department shall adopt regulations necessary and appropriate for the administration of the Program.

B. The Board shall appoint an Advisory Committee to the Court-Appointed Special Advocate Program, consisting of 15 members, one of whom shall be a judge of the juvenile and domestic relations district court or circuit court, knowledgeable of court matters, child welfare, and juvenile justice issues and representative of both state and local interests. The duties of the Advisory Committee shall be to advise the Board on all matters relating to the Program and the needs of the clients served by the Program, and to make such recommendations as it may deem desirable.

§ 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 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;

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

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

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

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59 court shall be limited to conducting a preliminary hearing to determine if there is probable cause to
60 believe that the juvenile committed the act alleged and that the juvenile was 16 years of age or older at
61 the time of the commission of the alleged offense, and any matters related thereto. In any case in which
62 the juvenile is alleged to have committed a violent juvenile felony enumerated in subsection C of
63 § 16.1-269.1, and for all charges ancillary thereto, if the attorney for the Commonwealth has given
64 notice as provided in subsection C of § 16.1-269.1, the jurisdiction of the juvenile court shall be limited
65 to conducting a preliminary hearing to determine if there is probable cause to believe that the juvenile
66 committed the act alleged and that the juvenile was 16 years of age or older at the time of the
67 commission of the alleged offense, and any matters related thereto. A determination by the juvenile
68 court following a preliminary hearing pursuant to subsection B or C of § 16.1-269.1 to certify a charge
69 to the grand jury shall divest the juvenile court of jurisdiction over the charge and any ancillary charge.
70 In any case in which a transfer hearing is held pursuant to subsection A of § 16.1-269.1, if the juvenile
71 court determines to transfer the case, jurisdiction of the juvenile court over the case shall be divested as
72 provided in § 16.1-269.6.

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

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

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

99 B. The admission of minors for inpatient treatment in a mental health facility in accordance with the
100 provisions of Article 16 (§ 16.1-335 et seq.) and the involuntary admission of a person with mental
101 illness or judicial certification of eligibility for admission to a training center for persons with
102 intellectual disability in accordance with the provisions of Chapter 8 (§ 37.2-800 et seq.) of Title 37.2.
103 Jurisdiction of the involuntary admission and certification of adults shall be concurrent with the general
104 district court.

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

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

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

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

118 1. Who has been abused or neglected;

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

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 that 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. Jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

H. Judicial consent to apply for a 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 that 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 and all offenses under § 18.2-49.1.

In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to determining whether or not there is probable cause. Any objection based on jurisdiction under this subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be conclusively waived for all purposes. Any such objection shall not affect or be grounds for 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, 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection 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 juvenile.

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.).

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. [Repealed.]

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

~~W. 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 (a) one or more authorized persons with whom the minor regularly and customarily resides is abusive or neglectful and (b) 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 perform the abortion without consent of or notice to an authorized person.

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

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

For purposes of this subsection:

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

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

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

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

"Notice of intent to perform the abortion" means that (i) the physician or his agent has given actual notice of his intention to perform such abortion to an authorized person, either in person or by telephone, at least 24 hours previous to the performance of the abortion or (ii) the physician or his

agent, after a reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours prior to the performance of the abortion.

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

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

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

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

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

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

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

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

Upon certification by the juvenile and domestic relations district court of any felony charge and ancillary misdemeanor charge committed by an adult or when an appeal of a conviction or adjudication of delinquency of an offense in the juvenile and domestic relations district court is noted, jurisdiction as to such charges shall vest in the circuit court, unless such case is reopened pursuant to § 16.1-133.1; a final judgment, order, or decree is modified, vacated, or suspended pursuant to Supreme Court of Virginia Rule 1:1; or the appeal has been withdrawn in the juvenile and domestic relations district court within 10 days pursuant to § 16.1-133.

Article 9.

Abortion Virginia Unborn Child Protection Act.

§ 18.2-71. Abortion prohibited; exceptions; penalty.

Except as provided in other sections of this article, if any person administer to, or cause to be taken by a woman, any drug or other thing, or use means, with intent to destroy her unborn child, or to produce abortion or miscarriage, and thereby destroy such child, or produce such abortion or miscarriage, he shall be guilty of a Class 4 felony.

A. As used in this article, unless the context requires a different meaning:

"Abortion" means the act of using, prescribing, administering, procuring, or selling any instrument, medicine, or drug or any other substance, device, or means with the purpose to terminate the pregnancy of a woman, with knowledge that the termination by any of those means will with reasonable likelihood cause the death of the unborn child.

"Fertilization" means the fusion of a human spermatozoon with a human ovum.

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

"Miscarriage" is the spontaneous loss of pregnancy before the twentieth week of pregnancy.

"Spontaneous abortion" means the naturally occurring death of an unborn child, including a miscarriage or stillbirth.

"Unborn child" means an individual organism of the species *Homo sapiens* from fertilization until live birth.

B. No abortion is authorized or shall be performed on an unborn child except when (i) a physician determines, in reasonable medical judgment, that a medical emergency exists or (ii) the probable gestational age of the unborn child is 20 weeks or less and the pregnancy is the result of rape or incest in which an official police report has been filed alleging the offense of rape or incest and such abortion pursuant to clause (i) or (ii) is performed by a licensed physician in a hospital licensed by the Department of Health or operated by the Department of Behavioral Health and Developmental Services.

For any abortion performed pursuant to this subsection, measures for life support for the product of such abortion shall be available and utilized if there is any clearly visible evidence of viability.

305 C. Any person who violates this section is guilty of a Class 4 felony.

306 D. It shall be an affirmative defense to prosecution under this section if (i) a licensed physician
307 provides medical treatment to a pregnant woman and such treatment results in the accidental or
308 unintentional injury to or death of an unborn child; (ii) a nurse practitioner, registered professional
309 nurse, or licensed practical nurse engages in the practice of nursing to provide care for a pregnant
310 woman and such care results in the accidental or unintentional injury to or death of an unborn child;
311 (iii) a licensed pharmacist engages in the practice of pharmacy to provide care for a pregnant woman
312 and such care results in the accidental or unintentional injury to or death of an unborn child; or (iv) a
313 licensed physician assistant provides care to a pregnant woman and such care results in the accidental
314 or unintentional injury to or death of an unborn child.

315 E. The provisions of this section shall not:

316 1. Authorize the arrest or prosecution of a woman with any criminal offense in the death or
317 spontaneous abortion of her own unborn child;

318 2. Impose any civil or criminal liability on a woman upon whom an abortion is performed or
319 attempted in which an abortifacient drug is used;

320 3. Prohibit the administration of misoprostol for the purposes of treatment of a miscarriage; or

321 4. Prohibit the sale, use, prescription, or administration of a contraceptive measure, drug, or
322 chemical if the contraceptive measure, drug, or chemical is administered before the time when a
323 pregnancy could be determined through conventional medical testing and if the contraceptive measure,
324 drug, or chemical is sold, used, prescribed, or administered in accordance with manufacturer
325 instructions.

326 **§ 18.2-75. Conscience clause.**

327 Nothing in §§ ~~18.2-72, 18.2-73~~ or § ~~18.2-74~~ 18.2-71 shall require a hospital or other medical facility
328 or physician to admit any patient under the provisions hereof for the purpose of performing an abortion.
329 In addition, any person who shall state in writing an objection to any abortion or all abortions on
330 personal, ethical, moral or religious grounds shall not be required to participate in procedures which will
331 result in such abortion, and the refusal of such person, hospital or other medical facility to participate
332 therein shall not form the basis of any claim for damages on account of such refusal or for any
333 disciplinary or recriminatory action against such person, nor shall any such person be denied
334 employment because of such objection or refusal. The written objection shall remain in effect until such
335 person shall revoke it in writing or terminate his association with the facility with which it is filed.

336 **§ 32.1-133.1. Human trafficking hotline; posted notice required; civil penalty.**

337 Any health care facility (i) licensed as a hospital pursuant to § 32.1-125 that includes an emergency
338 department or that is a dedicated emergency department as defined in 42 C.F.R. § 489.24(b), (ii)
339 operating as a clinic ~~which~~ that is organized in whole or in part for the delivery of health care services
340 without charge, or (iii) ~~licensed as an abortion facility pursuant to §~~ 32.1-127, or (iv) in which the
341 majority of patients are seen without appointments shall post notice of the existence of a human
342 trafficking hotline to alert possible witnesses or victims of human trafficking to the availability of a
343 means to report crimes or gain assistance. The notice required by this section shall be posted in a place
344 readily visible and accessible to the public such as the admitting area or public or patient restrooms of
345 such facility. Such notice shall meet the requirements specified in subsection C of § 40.1-11.3. The State
346 Board shall promulgate regulations necessary to implement the provisions of this section.

347 **§ 54.1-2969. Authority to consent to surgical and medical treatment of certain minors.**

348 A. Whenever any minor who has been separated from the custody of his parent or guardian is in
349 need of surgical or medical treatment, authority commensurate with that of a parent in like cases is
350 conferred, for the purpose of giving consent to such surgical or medical treatment, as follows:

351 1. Upon judges with respect to minors whose custody is within the control of their respective courts.

352 2. Upon local directors of social services or their designees with respect to (i) minors who are
353 committed to the care and custody of the local board by courts of competent jurisdiction, (ii) minors
354 who are taken into custody pursuant to § 63.2-1517, and (iii) minors who are entrusted to the local
355 board by the parent, parents or guardian, when the consent of the parent or guardian cannot be obtained
356 immediately and, in the absence of such consent, a court order for such treatment cannot be obtained
357 immediately.

358 3. Upon the Director of the Department of Corrections or the Director of the Department of Juvenile
359 Justice or his designees with respect to any minor who is sentenced or committed to his custody.

360 4. Upon the principal executive officers of state institutions with respect to the wards of such
361 institutions.

362 5. Upon the principal executive officer of any other institution or agency legally qualified to receive
363 minors for care and maintenance separated from their parents or guardians, with respect to any minor
364 whose custody is within the control of such institution or agency.

365 6. Upon any person standing in loco parentis, or upon a conservator or custodian for his ward or
366 other charge under disability.

B. Whenever the consent of the parent or guardian of any minor who is in need of surgical or medical treatment is unobtainable because such parent or guardian is not a resident of the Commonwealth or his whereabouts is unknown or he cannot be consulted with promptness reasonable under the circumstances, authority commensurate with that of a parent in like cases is conferred, for the purpose of giving consent to such surgical or medical treatment, upon judges of juvenile and domestic relations district courts.

C. Whenever delay in providing medical or surgical treatment to a minor may adversely affect such minor's recovery and no person authorized in this section to consent to such treatment for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon qualified emergency medical services personnel as defined in § 32.1-111.1 at the scene of an accident, fire or other emergency, a licensed health professional, or a licensed hospital by reason of lack of consent to such medical or surgical treatment. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

D. Whenever delay in providing transportation to a minor from the scene of an accident, fire or other emergency prior to hospital admission may adversely affect such minor's recovery and no person authorized in this section to consent to such transportation for such minor is available within a reasonable time under the circumstances, no liability shall be imposed upon emergency medical services personnel as defined in § 32.1-111.1, by reason of lack of consent to such transportation. However, in the case of a minor 14 years of age or older who is physically capable of giving consent, such consent shall be obtained first.

E. A minor shall be deemed an adult for the purpose of consenting to:

1. Medical or health services needed to determine the presence of or to treat venereal disease or any infectious or contagious disease that the State Board of Health requires to be reported;

2. Medical or health services required in case of birth control, pregnancy or family planning except for the purposes of sexual sterilization;

3. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for substance abuse as defined in § 37.2-100; or

4. Medical or health services needed in the case of outpatient care, treatment or rehabilitation for mental illness or emotional disturbance.

A minor shall also be deemed an adult for the purpose of accessing or authorizing the disclosure of medical records related to subdivisions 1 through 4.

F. Except for the purposes of sexual sterilization, any minor who is or has been married shall be deemed an adult for the purpose of giving consent to surgical and medical treatment.

G. A pregnant minor shall be deemed an adult for the sole purpose of giving consent for herself and her child to surgical and medical treatment relating to the delivery of her child when such surgical or medical treatment is provided during the delivery of the child or the duration of the hospital admission for such delivery; thereafter, the minor mother of such child shall also be deemed an adult for the purpose of giving consent to surgical and medical treatment for her child.

H. Any minor 16 years of age or older may, with the consent of a parent or legal guardian, consent to donate blood and may donate blood if such minor meets donor eligibility requirements. However, parental consent to donate blood by any minor 17 years of age shall not be required if such minor receives no consideration for his blood donation and the procurer of the blood is a nonprofit, voluntary organization.

I. Any judge, local director of social services, Director of the Department of Corrections, Director of the Department of Juvenile Justice, or principal executive officer of any state or other institution or agency who consents to surgical or medical treatment of a minor in accordance with this section shall make a reasonable effort to notify the minor's parent or guardian of such action as soon as practicable.

~~J. Nothing in subsection G shall be construed to permit a minor to consent to an abortion without complying with § 16.1-241.~~

~~K. Nothing in subsection E shall prevent a parent, legal guardian or person standing in loco parentis from obtaining (i) the results of a minor's nondiagnostic drug test when the minor is not receiving care, treatment or rehabilitation for substance abuse as defined in § 37.2-100 or (ii) a minor's other health records, except when the minor's treating physician, clinical psychologist, clinical social worker, or licensed professional counselor has determined, in the exercise of his professional judgment, that the disclosure of health records to the parent, legal guardian, or person standing in loco parentis would be reasonably likely to cause substantial harm to the minor or another person pursuant to subsection B of § 20-124.6.~~

2. That §§ 18.2-71.1 through 18.2-74.1, 18.2-76, and 32.1-92.2 of the Code of Virginia are repealed.

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult

428 correctional facilities; therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I,
429 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of
430 \$50,000. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary
431 appropriation cannot be determined for periods of commitment to the custody of the Department
432 of Juvenile Justice.