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HOUSE BILL NO. 994

Offered January 10, 2024

Prefiled January 9, 2024

A BILL to amend and reenact §§ 16.1-241, 16.1-331, 16.1-333, 16.1-334, 20-45.1, 20-48, 20-89.1, and 20-90 of the Code of Virginia and to repeal § 16.1-333.1 of the Code of Virginia, relating to legal age for marriage.

Patrons—Keys-Gamarra (By Request), Clark and Henson

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241, 16.1-331, 16.1-333, 16.1-334, 20-45.1, 20-48, 20-89.1, and 20-90 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-241. Jurisdiction; consent for abortion.

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

In all other cases involving delinquent acts, and in cases in which an ancillary charge remains after a violent juvenile felony charge has been dismissed or a violent juvenile felony has been reduced to a lesser offense not constituting a violent juvenile felony, the jurisdiction of the juvenile court shall not be

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59 divested unless there is a transfer pursuant to subsection A of § 16.1-269.1.

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

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

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

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

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

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

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

101 1. Who has been abused or neglected;

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

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

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

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

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

119 J. All offenses in which one family or household member is charged with an offense in which
120 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

182 records of such proceedings shall be confidential. Such proceedings shall be given precedence over other
183 pending matters so that the court may reach a decision promptly and without delay in order to serve the
184 best interests of the minor. Court proceedings under this subsection shall be heard and decided as soon
185 as practicable but in no event later than four days after the petition is filed.

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

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

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

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

198 A physician shall not knowingly perform an abortion upon an unemancipated minor unless consent
199 has been obtained or the minor delivers to the physician a court order entered pursuant to this section
200 and the physician or his agent provides such notice as such order may require. However, neither consent
201 nor judicial authorization nor notice shall be required if the minor declares that she is abused or
202 neglected and the attending physician has reason to suspect that the minor may be an abused or
203 neglected child as defined in § 63.2-100 and reports the suspected abuse or neglect in accordance with
204 § 63.2-1509; or if there is a medical emergency, in which case the attending physician shall certify the
205 facts justifying the exception in the minor's medical record.

206 For purposes of this subsection:

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

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

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

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

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

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

232 "Unemancipated minor" means a minor who has not been emancipated by (i) entry into a valid
233 marriage entered into prior to July 1, 2024, or lawfully entered into in another state or country prior to
234 being domiciled in the Commonwealth, even though the marriage may have been terminated by
235 dissolution; (ii) active duty with any of the Armed Forces of the United States; (iii) willingly living
236 separate and apart from his or her parents or guardian, with the consent or acquiescence of the parents
237 or guardian; or (iv) entry of an order of emancipation pursuant to Article 15 (§ 16.1-331 et seq.).

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

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

242 Z. Petitions filed pursuant to § 16.1-283.3 for review of voluntary agreements for continuation of
243 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.

§ 16.1-331. Petition for emancipation.

Any minor who has reached his sixteenth birthday and is residing in this Commonwealth, or any parent or guardian of such minor, may petition the juvenile and domestic relations district court for the county or city in which either the minor or his parents or guardian resides for a determination that the minor named in the petition be emancipated. The petition shall contain, in addition to the information required by § 16.1-262, the gender of the minor and, if the petitioner is not the minor, the name of the petitioner and the relationship of the petitioner to the minor. If the petition is based on the minor's desire to enter into a valid marriage, the petition shall also include the name, age, date of birth, if known, and residence of the intended spouse. The petitioner shall also attach copies of any criminal records of each individual intending to be married. The petitioner shall also attach copies of any protective order issued between the individuals to be married.

§ 16.1-333. Findings necessary to order that minor is emancipated.

The court may enter an order declaring the minor emancipated if, after a hearing, it is found that: (i) the minor has entered into a valid marriage, whether or not that marriage has been terminated by dissolution; (ii) the minor is on active duty with any of the armed forces of the United States of America; (iii) or (iv) the minor willingly lives separate and apart from his parents or guardian, with the consent or acquiescence of the parents or guardian, and that the minor is or is capable of supporting himself and competently managing his own financial affairs; or (iv) the minor desires to enter into a valid marriage and the requirements of § 16.1-333.1 are met.

§ 16.1-334. Effects of order.

An order that a minor is emancipated shall have the following effects:

1. The minor may consent to medical, dental, or psychiatric care, without parental consent, knowledge, or liability;
2. The minor may enter into a binding contract or execute a will;
3. The minor may sue and be sued in his own name;
4. The minor shall be entitled to his own earnings and shall be free of control by his parents or guardian;
5. The minor may establish his own residence;
6. The minor may buy and sell real property;
7. The minor may not thereafter be the subject of a petition under this chapter as abused, neglected, abandoned, in need of services, in need of supervision, or in violation of a juvenile curfew ordinance enacted by a local governing body;
8. The minor may enroll in any school or institution of higher education, without parental consent;
9. The minor may secure a driver's license under § 46.2-334 or § 46.2-335 without parental consent;
10. The parents of the minor shall no longer be the guardians of the minor;
11. The parents of a minor shall be relieved of any obligations respecting his school attendance under Article 1 (§ 22.1-254 et seq.) of Chapter 14 of Title 22.1;
12. The parents shall be relieved of all obligation to support the minor;
13. The minor shall be emancipated for the purposes of parental liability for his acts;
14. The minor may execute releases in his own name; and
15. The minor may not have a guardian ad litem appointed for him pursuant to any statute solely because he is under age 18; and

16. The minor may marry without parental, judicial, or other consent.

The acts done when such order is or is purported to be in effect shall be valid notwithstanding any subsequent action terminating such order or a judicial determination that the order was void ab initio.

§ 20-45.1. Void and voidable marriages.

305 A. All marriages that are prohibited by § 20-38.1 are void.

306 B. All marriages solemnized when either of the parties lacked capacity to consent to the marriage at
307 the time the marriage was solemnized, because of mental incapacity or infirmity, shall be void from the
308 time they shall be so declared by a decree of divorce or nullity.

309 C. All marriages solemnized on or after (i) July 1, 2016, when either or both of the parties were, at
310 the time of the solemnization, under the age of 18 and have not been emancipated as required by
311 § 20-48 or (ii) July 1, 2024, when either or both of the parties were, at the time of solemnization, under
312 the age of 18 shall be void from the time they shall be so declared by a decree of divorce or nullity.
313 Notwithstanding the foregoing, this section shall not apply to a lawful marriage entered in another state
314 or country prior to the parties being domiciled in the Commonwealth.

315 **§ 20-48. Minimum age of marriage.**

316 The minimum age at which persons may marry shall be 18; ~~unless a minor has been emancipated by~~
317 ~~court order. Upon application for a marriage license, an emancipated minor shall provide a certified~~
318 ~~copy of the order of emancipation.~~

319 **§ 20-89.1. Suit to annul marriage.**

320 A. When a marriage is alleged to be void or voidable for any of the causes mentioned in § 20-13,
321 20-38.1, or 20-45.1 or by virtue of fraud or duress, either party may institute a suit for annulling the
322 same; and upon proof of the nullity of the marriage, it shall be decreed void by a decree of annulment.

323 B. In the case of natural or incurable impotency of body existing at the time of entering into the
324 marriage contract, or when, prior to the marriage, either party, without the knowledge of the other, had
325 been convicted of a felony, or when, at the time of the marriage, either spouse, without the knowledge
326 of the other spouse, was with child by a person other than the other spouse or had conceived a child
327 born to a person other than the other spouse within 10 months after the date of the solemnization of the
328 marriage, or where, prior to the marriage, either party had been, without the knowledge of the other, a
329 prostitute, a decree of annulment may be entered upon proof, on complaint of the party aggrieved.

330 C. No annulment for a marriage alleged to be void or voidable under subsection B of § 20-45.1 or
331 subsection B of this section or by virtue of fraud or duress shall be decreed if it appears that the party
332 applying for such annulment has cohabited with the other after knowledge of the facts giving rise to
333 what otherwise would have been grounds for annulment, and in no event shall any such decree be
334 entered if the parties had been married for a period of two years prior to the institution of such suit for
335 annulment.

336 D. ~~A~~ For any marriage entered into prior to July 1, 2024, a party who, at the time of such marriage
337 as is mentioned in § 20-48, was capable of consenting with a party not so capable shall not be permitted
338 to institute a suit for the purpose of annulling such marriage.

339 **§ 20-90. Suit to affirm marriage.**

340 ~~A.~~ When the validity of any marriage shall be denied or doubted by either of the parties, the other
341 party may institute a suit for affirmance of the marriage, and upon due proof of the validity thereof, it
342 shall be decreed to be valid, and such decree shall be conclusive upon all persons concerned.

343 ~~B.~~ Notwithstanding § 20-13, a marriage of a couple where one of the parties was under the age of 18
344 at the time of solemnization may be decreed valid upon petition by the party who was under the age of
345 18 at the time of the solemnization that would otherwise be deemed voidable under subsection C of
346 § 20-45.1 solely because of age, once such party has attained the age of 18. If both parties were under
347 the age of 18 at the time of solemnization, such petition shall not be granted unless both parties have
348 reached the age of 18 and join in the petition together.

349 **2. That § 16.1-333.1 of the Code of Virginia is repealed.**