

HOUSE BILL NO. 765

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice

on _____)

(Patron Prior to Substitute--Delegate Delaney)

A BILL to amend and reenact §§ 16.1-241 and 16.1-266 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-283.01, relating to termination of parental rights.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-241 and 16.1-266 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-283.01 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;

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

29 4. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-
30 1817 or whose parent or parents for good cause desire to be relieved of his care and custody;

31 5. Where the termination of residual parental rights and responsibilities is sought. In such cases
32 jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in
33 § 16.1-244;

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

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

36 8. Where the termination of parental rights is sought pursuant to § 16.1-283.01.

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

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

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

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

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

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

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

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

95 F. Any parent, guardian, legal custodian or other person standing in loco parentis of a child:
96 1. Who has been abused or neglected;
97 2. Who is the subject of an entrustment agreement entered into pursuant to § 63.2-903 or 63.2-
98 1817 or is otherwise before the court pursuant to subdivision A 4; or
99 3. Who has been adjudicated in need of services, in need of supervision, or delinquent, if the court
100 finds that such person has by overt act or omission induced, caused, encouraged or contributed to the
101 conduct of the child complained of in the petition.

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

105 custodian or other person standing in loco parentis. Jurisdiction in such cases shall be concurrent with and
106 not exclusive of that of courts having equity jurisdiction as provided in § 16.1-244.

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

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

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

116 In prosecution for felonies over which the court has jurisdiction, jurisdiction shall be limited to
117 determining whether or not there is probable cause. Any objection based on jurisdiction under this
118 subsection shall be made before a jury is impaneled and sworn in a jury trial or, in a nonjury trial, before
119 the earlier of when the court begins to hear or receive evidence or the first witness is sworn, or it shall be
120 conclusively waived for all purposes. Any such objection shall not affect or be grounds for challenging
121 directly or collaterally the jurisdiction of the court in which the case is tried.

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

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

129 M. Petitions filed for the purpose of obtaining an order of protection pursuant to § 16.1-253.1,
130 16.1-253.4, or 16.1-279.1, and all petitions filed for the purpose of obtaining an order of protection

131 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
132 juvenile.

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

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

137 P. Petitions for enforcement of administrative support orders entered pursuant to Chapter 19 (§
138 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
139 juvenile and domestic relations district court upon the filing of a certified copy of such order in the juvenile
140 and domestic relations district court.

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

143 R. [Repealed.]

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

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

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

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

155 W. Petitions filed by a juvenile seeking judicial authorization for a physician to perform an
156 abortion 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 minor,
166 the judge shall consider the totality of the circumstances; however, he shall find that notice is not in the
167 best interest of the minor if he finds that (a) one or more authorized persons with whom the minor regularly
168 and customarily resides is abusive or neglectful and (b) every other authorized person, if any, is either
169 abusive or neglectful or has refused to accept responsibility as parent, legal guardian, custodian or person
170 standing in loco parentis.

171 The minor may participate in the court proceedings on her own behalf, and the court may appoint
172 a guardian ad litem for the minor. The court shall advise the minor that she has a right to counsel and shall,
173 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 records
176 of such proceedings shall be confidential. Such proceedings shall be given precedence over other pending
177 matters so that the court may reach a decision promptly and without delay in order to serve the best
178 interests of the minor. Court proceedings under this subsection shall be heard and decided as soon as
179 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 be
182 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 and
194 the physician or his agent provides such notice as such order may require. However, neither consent nor
195 judicial authorization nor notice shall be required if the minor declares that she is abused or neglected and
196 the attending physician has reason to suspect that the minor may be an abused or neglected child as defined
197 in § 63.2-100 and reports the suspected abuse or neglect in accordance with § 63.2-1509; or if there is a
198 medical emergency, in which case the attending physician shall certify the facts justifying the exception
199 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
202 signed by an authorized person that the authorized person knows of the minor's intent to have an abortion
203 and 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
205 or (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 person
207 who knows he is not an authorized person and who knowingly and willfully signs an authorization
208 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 the
211 minor seeking the abortion and provides written authorization to the physician, which shall be witnessed
212 by the physician or an agent thereof. In either case, the written authorization shall be incorporated into the
213 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
215 clinical judgment, so complicates the medical condition of the pregnant minor as to necessitate the
216 immediate abortion of her pregnancy to avert her death or for which a delay will create a serious risk of
217 substantial 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 telephone,
220 at least 24 hours previous to the performance of the abortion or (ii) the physician or his agent, after a
221 reasonable effort to notify an authorized person, has mailed notice to an authorized person by certified
222 mail, addressed to such person at his usual place of abode, with return receipt requested, at least 72 hours
223 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 of
228 the Armed Forces of the United States; (iii) willingly living separate and apart from his or her parents or
229 guardian, with the consent or acquiescence of the parents or guardian; or (iv) entry of an order of
230 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
234 or 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
241 of 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
244 of subsection W shall be guilty of a Class 3 misdemeanor.

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

252 **§ 16.1-266. Appointment of counsel and guardian ad litem.**

253 A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or
254 neglected or who is the subject of an entrustment agreement or a petition seeking termination of residual
255 parental rights or parental rights or who is otherwise before the court pursuant to subdivision A 4 of §
256 16.1-241 or § 63.2-1230, the court shall appoint a discreet and competent attorney-at-law as guardian ad
257 litem to represent the child pursuant to § 16.1-266.1.

258 B. Prior to the detention hearing held pursuant to § 16.1-250, the court shall appoint a qualified
259 and competent attorney-at-law to represent the child unless an attorney has been retained and appears on
260 behalf of the child. For the purposes of appointment of counsel for the detention hearing held pursuant to

261 § 16.1-250 only, a child's indigence shall be presumed. Nothing in this subsection shall prohibit a judge
262 from releasing a child from detention prior to appointment of counsel.

263 C. Subsequent to the detention hearing, if any, and prior to the adjudicatory or transfer hearing by
264 the court of any case involving a child who is alleged to be in need of services, in need of supervision or
265 delinquent, such child and his parent, guardian, legal custodian or other person standing in loco parentis
266 shall be informed by a judge, clerk or probation officer of the child's right to counsel and of the liability
267 of the parent, guardian, legal custodian or other person standing in loco parentis for the costs of such legal
268 services pursuant to § 16.1-267 and be given an opportunity to:

- 269 1. Obtain and employ counsel of the child's own choice; or
- 270 2. Request that the court appoint counsel, provided that before counsel is appointed or the court
271 continues any appointment previously made pursuant to subsection B, the court shall determine that the
272 child is indigent within the contemplation of the law pursuant to guidelines set forth in § 19.2-159 by
273 requiring the child's parent, guardian, legal custodian or other person standing in loco parentis to complete
274 a statement of indigence substantially in the form provided by § 19.2-159 and a financial statement, and
275 upon determination of indigence the court shall appoint an attorney from the list maintained by the
276 Indigent Defense Commission pursuant to § 19.2-163.01 to represent the child; or
- 277 3. Waive the right to representation by an attorney, if the court finds the child and the parent,
278 guardian, legal custodian or other person standing in loco parentis of the child consent, in writing, and
279 such waiver is consistent with the interests of the child. Such written waiver shall be in accordance with
280 law and shall be filed with the court records of the case. A child who is alleged to have committed an
281 offense that would be a felony if committed by an adult, may waive such right only after he consults with
282 an attorney and the court determines that his waiver is free and voluntary. The waiver shall be in writing,
283 signed by both the child and the child's attorney and shall be filed with the court records of the case.

284 D. A judge, clerk or probation officer shall inform the parent or guardian of his right to counsel
285 prior to the adjudicatory hearing of a petition in which a child is alleged to be abused or neglected or at
286 risk of abuse or neglect as provided in subdivision A 2a of § 16.1-241 and prior to a hearing at which a
287 parent could be subjected to the loss of residual parental rights pursuant to § 16.1-283 or parental rights

288 pursuant to § 16.1-283.01. In addition, prior to the hearing by the court of any case involving any other
289 adult charged with abuse or neglect of a child, this adult shall be informed of his right to counsel. This
290 adult and the parent or guardian shall be given an opportunity to:

- 291 1. Obtain and employ counsel of the parent's, guardian's or other adult's own choice; or
- 292 2. If the court determines that the parent, guardian or other adult is indigent within the
293 contemplation of the law pursuant to the guidelines set forth in § 19.2-159, a statement substantially in
294 the form provided by § 19.2-159 and a financial statement shall be executed by such parent, guardian or
295 other adult and the court shall appoint an attorney-at-law to represent him; or
- 296 3. Waive the right to representation by an attorney in accordance with the provisions of § 19.2-
297 160.

298 If the identity or location of a parent or guardian is not reasonably ascertainable or a parent or
299 guardian fails to appear, the court shall consider appointing an attorney-at-law to represent the interests of
300 the absent parent or guardian, and the hearing may be held.

301 Prior to a hearing at which a child is the subject of an initial foster care plan filed pursuant to §
302 16.1-281, a foster care review hearing pursuant to § 16.1-282 and a permanency planning hearing pursuant
303 to § 16.1-282.1, the court shall consider appointing counsel to represent the child's parent or guardian.

304 E. In those cases described in subsections A, B, C and D, which in the discretion of the court
305 require counsel or a guardian ad litem to represent the child or children or the parent or guardian or other
306 adult party in addition to the representation provided in those subsections, a discreet and competent
307 attorney-at-law may be appointed by the court as counsel or a guardian ad litem.

308 F. In all other cases which in the discretion of the court require counsel or a guardian ad litem, or
309 both, to represent the child or children or the parent or guardian, discreet and competent attorneys-at-law
310 may be appointed by the court. However, in cases where the custody of a child or children is the subject
311 of controversy or requires determination and each of the parents or other persons claiming a right to
312 custody is represented by counsel, the court shall not appoint counsel or a guardian ad litem to represent
313 the interests of the child or children unless the court finds, at any stage in the proceedings in a specific
314 case, that the interests of the child or children are not otherwise adequately represented.

315 G. Any state or local agency, department, authority or institution and any school, hospital,
316 physician or other health or mental health care provider shall permit a guardian ad litem or counsel for the
317 child appointed pursuant to this section to inspect and copy, without the consent of the child or his parents,
318 any records relating to the child whom the guardian or counsel represents upon presentation by him of a
319 copy of the court order appointing him or a court order specifically allowing him such access. Upon
320 request therefor by the guardian ad litem or counsel for the child made at least 72 hours in advance, a
321 mental health care provider shall make himself available to conduct a review and interpretation of the
322 child's treatment records which are specifically related to the investigation. Such a request may be made
323 in lieu of or in addition to inspection and copying of the records.

324 **§ 16.1-283.01. Termination of parental rights; cause of action created.**

325 A parent may file a petition to terminate the parental rights of the other parent if the circumstances
326 giving rise to such a petition allege that such other parent engaged in the conduct prohibited by subsection
327 A of § 18.2-61, subsection A of § 18.2-63, or subsection B of § 18.2-366, whether or not the parent has
328 been charged with or convicted of the alleged violation, and the child was conceived of such conduct.

329 Any such order terminating the parental rights of a parent shall be entered upon a finding, based
330 on clear and convincing evidence, that (i) such parent engaged in the conduct prohibited by subsection A
331 of § 18.2-61, subsection A of § 18.2-63, or subsection B of § 18.2-366, whether or not the parent has been
332 charged with or convicted of the alleged violation, and the child was conceived of such conduct and (ii)
333 termination of the parental rights of such parent is in the best interests of the child. For the purposes of
334 this section, if such parent is found by clear and convincing evidence to have engaged in the conduct
335 prohibited by clause (i) resulting in the conception of such child, there shall be a rebuttable presumption
336 that termination is in the best interests of the child. No presumption shall be made by the court that one
337 parent alone is contrary to the best interests of the child.

338 Any statements made by the parent against whom such petition was filed in a hearing held pursuant
339 to this section shall be inadmissible in a subsequent related criminal proceeding, except for purposes of
340 impeachment.

341 After the filing of a petition pursuant to this section, a summons shall be served upon the parent
342 against whom the petition is filed and any other party specified by § 16.1-263, and service shall be made
343 pursuant to § 16.1-264.

344 Any provision regarding the appointment of counsel and a guardian ad litem applicable to petitions
345 filed pursuant to § 16.1-283 shall apply mutatis mutandis to petitions filed pursuant to this section.

346 #