# SERVICES TO YOUTHFUL OFFENDERS
# REVISION OF THE JUVENILE CODE
# REPORT OF THE
# VIRGINIA ADVISORY LEGISLATIVE COUNCIL

To
The Governor
And
The General Assembly of Virginia



SENATE DOCUMENT NO. 19

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1976

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# JUVENILE CODE REVISION

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# VIRGINIA ADVISORY LEGISLATIVE COUNCIL

**Richmond, Virginia**

**February 2, 1976**

TO: Honorable Mills E. Godwin, Jr., Governor of Virginia

and

The General Assembly of Virginia

## INTRODUCTION

The Virginia Advisory Legislative Council Committee Studying Services to Youthful Offenders was organized and is conducting its study pursuant to Senate Joint Resolution No. 17 of the 1974 Session of the General Assembly. That Resolution is as follows:

## SENATE JOINT RESOLUTION NO. 17

Directing the Virginia Advisory Legislative Council to continue its study on the planning for and delivery of services to youthful offenders and on probation and parole matters.

WHEREAS, House Joint Resolution No. 133 of the 1972 Session of the General Assembly directed the Virginia Advisory Legislative Council "to make a study and report on devising a system of comprehensive planning for and delivery of services to youthful offenders, and devising a system whereby the system of probation and parole of all offenders may be improved"; and

WHEREAS, a Committee of the Council undertook this study and determined it would need more expertise for such a comprehensive study; and

WHEREAS, with the assistance of federal funds, the Council and the Virginia Crime Commission employed the John Howard Association, a nonprofit consulting agency in the administration of justice field, to conduct a study; and

WHEREAS, the findings and recommendations of the Association were not available until January fifteen, nineteen hundred seventy-four; now, therefore, be it



RESOLVED by the Senate, the House of Delegates concurring, That the Virginia Advisory Legislative Council is hereby directed to continue its study on devising a system of comprehensive planning for and delivery of services to youthful offenders, and on devising a system whereby the system of probation and parole of all offenders may be further improved. The Council shall not be limited to these matters, but shall consider all aspects of the problems relating to this subject. The Virginia Probation and Parole Board, the Department of Welfare and Institutions, the Virginia State Crime Commission, the Division of Justice and Crime Prevention, and all other interested State agencies shall assist the Council upon request.

The Council is further directed to study the entirety of Chapter 8 of Title 16.1 and the function of the Division of Youth Services, and to recommend such changes and revisions of the law and the Division as to it may seem proper.

The Council shall complete its study and make its report to the Governor and the General Assembly not later than September one, nineteen hundred seventy-five.

## HISTORY

Pursuant to the Council's direction to study Chapter 8 of Title 16.1 concerning juvenile and domestic relations district courts, a subcommittee of the Committee Studying Services to Youthful Offenders, chaired by Senator Lawrence Douglas Wilder of Richmond, was formed to fulfill this responsibility. Delegate Wyatt B. Durrette, Jr. of Fairfax was appointed to act as chairman of the Subcommittee. The following persons were appointed to serve as members of the Subcommittee: Judge E. Ballard Baker of Richmond, Senator Herbert H. Bateman of Newport News, Harry W. Campbell of Rocky Mount, Judge Frank L. Deierhoi of Fairfax, John D. Eure, Jr. of Suffolk, Sergeant Robert M. Hayden of Richmond, Leonard W. Lambert of Richmond, Robert E. Shepherd, Jr. formerly of Richmond, now of Baltimore, William A. Smith of Newport News and William E. Weddington of Richmond.

The Subcommittee began its work in the fall of 1974 by hearing from several professionals in the field of juvenile law who detailed specific problems they saw in the present laws governing children in Virginia and provided an overview of the subject matter, noting current philosophies and approaches in dealing with troubled children. This orientation to its task helped to prepare the Subcommittee for a series of public hearings held around the State to hear the views of professionals and citizens concerned about children and the impact of juvenile crime on the community. A questionnaire, set out in the appendix to this report, specifying particular issues the members were interested in comments on was widely distributed. After numerous work sessions in the spring, summer and early fall in which the Subcommittee completed the revision of Chapter 8 of Title 16.1, over eleven hundred copies of the Subcommittee's proposals were sent to legislators, professionals

and interested citizens for their study and comment. Through public hearings held in the fall and through considerable written comment, valuable contributions were made to the Subcommittee's work, and its proposals were modified to reflect the concerns of the public where the members felt it to be appropriate.

## BASIS FOR RECOMMENDATIONS

In the past decade or so there have been several landmark decisions in the Supreme Court of the United States and in other federal and State appellate courts aimed at the hitherto hidden or ignored abuses and failures of the juvenile system, both in the judicial and corrections stages. Such litigation has had a sound basis to work from because of the rehabilitation and treatment obligation imposed by state statutes on state juvenile processes, the closely related developments in the criminal field during the 1960's and the sharper delineation and fuller documentation of issues in the juvenile field through scattered litigation during the past ten or fifteen years.

In 1967 the United States Supreme Court decided the case of In re Gault . This case held that a juvenile has the right to notice of the charges brought against him, to counsel, to confrontation of witnesses and to the privilege against self-incrimination. This case now provides&much of the foundation on which is based the due process requirements for children who become involved with the law.

The present Virginia law which deals with troubled and delinquent children and other family matters which come to the attention of law enforcement agencies has not been revised as a whole since the mid-1950's. The piecemeal revision which has come about during the last two decades due to the landmark Supreme Court decisions mentioned earlier and the development of new concepts concerning juvenile issues has left Virginia's laws in a less than orderly and comprehensive form. Throughout its work the Subcommittee kept in mind that Virginia's laws governing children and families need to be systematically organized and need to express a consistent philosophy. In restructuring and revising the Virginia law on juvenile and domestic relations district courts, certain principles and standards which the Subcommittee members feel are important were followed in approaching the problems of troubled children and in considering the need to protect society from dangerous youth. Of crucial importance in dealing with children and parents is the maintenance and support, wherever possible, of the family unit. There is a considerable price to pay, both financially and emotionally, when a child is removed from his natural home or a home is otherwise broken up. Where in-home services, family counseling and other such rehabilitative tools can be used to heal a broken family or support a foundering home, this should be the first line of defense. When it is necessary to remove a child from a bad home situation to protect the child, the parent or the community, every effort should be made to return the child home or place him in another stable residential placement as quickly as practicable. When a child comes before the court as a result of his or her misbehavior or difficulties in the home, parents need to become more involved in the programs designed to resolve the child's difficulties. A child does not grow up in a vacuum. He reflects his environment in which parents can play a key role. Parents must become more accountable for the acts of their children and take a more active role in the modification of the behavior of any member of the family which is unacceptable to the community in which they live.

The Council feels it is important to give the court every viable alternative in dealing with the sensitive and often complex matters related to children and families who come within its jurisdiction. Such alternatives begin with an emphasis on diversion from the system itself. A trained intake unit should, to the extent possible and consistent with the public safety, divert from the justice system those children and family matters which can be cared for or treated through alternative processes. Such diversion of cases where court intervention would be inappropriate or ineffective will conserve the court's time and allow the court to utilize its expertise in more serious matters peculiar to its jurisdiction. When it is suitable for a case to come before the court, the judge should be empowered to require rehabilitative treatment, reparation, restitution or any other conditions of behavior necessary to protect the community from dangerous citizens and to improve the life and development of parties before the court. The Council's proposals for dispositional alternatives available to the court envision a broader role for the court in ensuring that services needed are delivered, that the rights of children and families whether or not they are accused of violations of law are protected and that proper safeguards are followed for the benefit of the community.

The recommendations made in this report are intended to give juvenile and domestic relations district courts more responsibility for advocating the best interests of children and for monitoring those programs in which it places children. The Council believes greater emphasis must be placed on community involvement with troubled children through rehabilitative treatment programs and community residential care. The local juvenile court is in a unique position to point out the need for support of policies which promote the best interests of children and which will ultimately benefit the community as a whole. In the final analysis the involvement and support of the community may be the most critical factor.

## DISCUSSION OF LEGISLATIVE RECOMMENDATIONS

The Council's proposal for a new Chapter 10 to replace the existing law governing juvenile and domestic relations district courts in Chapter 8 of Title 16.1 is intended to clarify the procedures and policies to be used in handling cases within the court's jurisdiction. A brief explanation will be set out here of the major substantive changes in the present law being recommended by the Council.

processes, delinquency and behavioral problems and community correctional procedures should be required in order for these court personnel to carry out their duties responsibly and effectively.

ARTICLE 6—APPOINTMENT OF COUNSEL.

The appointment of counsel is provided for in Article 6 of the Council's proposals and affords counsel to a child, his or her parent and any other adult who comes before the court within the given circumstances. To correspond with the court's jurisdiction over parents in § 16.1-237, § 16.1-261 allows such parent or adult to have counsel appointed for him or her. Because of the potentially complex and serious nature of proceedings in the juvenile court involving substantial rights and responsibilities of children and adults, the Council feels this broadening of the right to counsel is crucial to maintaining the integrity of the juvenile court process.

ARTICLE 7—TRANSFER AND WAIVER.

In § 16.1-267 the power of the circuit court over certain juvenile offenders is set out. This provision gives the juvenile the right to trial by jury on the issue of guilt or innocence, and the court then sentences or commits the juvenile in accordance with State criminal laws or with the laws prescribed for the disposition of cases in the juvenile court. Where an appeal is taken by a child upon a finding that he or she is delinquent, trial by jury on the issue of guilt or innocence of the alleged delinquent act may also be had on motion of the child, the Commonwealth's Attorney or the circuit court judge. If a jury finds the child guilty, disposition shall be by the judge. A child has the constitutional right to a trial by jury on the issue of guilt or innocence in the circuit court, but the problems peculiar to juvenile cases demand the expertise of the judge in sentencing and commitment. Jury sentencing is a practice which is critically being reviewed at the adult level as being archaic and incompatible with an effective criminal justice system, and the Council believes it is time to end this practice in juvenile cases.

ARTICLE 9—DISPOSITION.

Section 16.1-273 of Article 9 gives the juvenile judge the authority to order any State, county and municipal officer or employee or any governmental agency or other institution to render such information, assistance, services and cooperation as may be required to further the objects of the juvenile laws and as shall be within the person's or entity's legal authority. The authority to cooperate with and make use of the services of other public and private organizations and societies is also provided the court. This provision empowers the court to require, among other things, that services mandated by law be delivered by the responsible public employee or governmental agency. Any adult or agency violating an order of the juvenile court may be proceeded against by a show cause order, for contempt of court or by both, § 16.1-288. The juvenile court is given tremendous responsibility for the care, protection and assistance of children and families within its jurisdiction. It must have the authority to require the cooperation and assistance of officials and agencies which have the means to



meet the needs of these citizens.

Section 16.1-274 provides the alternative dispositions available to the juvenile court for the three categories of children previously discussed and for other cases coming within the court's jurisdiction. Subsection B. of § 16.1-274 relates to cases of entrustment and is worthy of special attention. Amendments being proposed by the Coucnil to §§ 63.1-56 and 63.1-204 require that entrustment agreements entered into by a local board of public welfare or social services or a licensed child-placing agency which shall last for more than ninety days shall be filed with the juvenile court for its approval within thirty days of the execution of the agreement. The court would review the agreement on the basis of the standards for entrustment set out in § 16.1-272 and make an appropriate disposition of the case. Consistent with the previous discussion of the Council's bases for its recommendations, the family unit should be preserved and supported wherever this is practicable and possible. A child should have a stable home environment in which to grow up. When the child is removed from his home either with or without the consent of his parents for longer than a ninety-day period, his case should be reviewed by the juvenile court. The Council found that in many instances children have been entrusted to local departments of social services or public welfare and have become caught up in the foster care cycle for many years. Sometimes the condition that precipitated the entrustment and the child's entry into foster care has been removed, but the child fails to return home. The parents may not want the child back, or they may believe the child has been taken from them permanently. Sometimes agencies do not know about the changed conditions either because the child has no caseworker at the time or because heavy caseloads make it difficult to keep track of what is happening to a particular child and his or her parents. Many children who are the subject of entrustment agreements could be cared for in their own homes if homemaker or day care services are made available or used. Court review of these agreements is intended to insure that all of these factors are considered and that the rights of the child and his parents are protected.

Subsection D. of § 16.1-274 states that "Unless a child found to be abused, neglected or in need of services shall also be found to be delinquent and shall be older than ten years of age, he shall not be committed to the State Board of Corrections." There is presently no minimum age for the commitment of children to the State Board. The minimum age of thirteen years for commitment was recommended by several groups which appeared before the Subcommittee in its hearings and was given serious consideration. Because of the current lack of alternative facilities for dealing with the seriously disturbed and potentially dangerous young child, both in the corrections and mental health fields in the Commonwealth, the Council recommends that no child ten years of age and under be committed to the State Board. This recommendation is accompanied, however, with the admonition that community resources must be developed to meet the needs of these young children and that in the very near future commitment of children eleven and twelve years of age to the State Board of Corrections may not be allowed. The Council further recommends that juvenile

and circuit court judges, when sentencing and committing children under the present and proposed law, give serious consideration to whether commitments to a mental health facility rather than to a correctional institution would be more suitable to meet the child's needs if commitment is required.

The category of children defined in § 16.1-224 as "children in need of services" and commonly referred to as "status offenders" has received national attention in the last several years. The National Council on Crime and Delinquency and the Juvenile Justice Standards Project of the Institute of Judicial Administration and of the American Bar Association advocate completely removing status offenders, juvenile victimless crimes, from the jurisdiction of the juvenile court. It is their position that subjecting a child to judicial sanctions for a status offense helps neither the child nor society and, instead, often does considerable harm to both. Several groups which appeared before the Subcommittee also urged that this position be adopted in these recommendations. The Council does not feel, however, that this is an advisable course of action for the Commonwealth at this time.

The issue of whether a child in need of services should, under any circumstances, be committed to the State Board of Corrections was also widely debated in the public hearings held by the Subcommittee, in the written correspondence received by the staff and by the members themselves. The Subcommittee resolved this controversial question in favor of noncommitment of the child in need of services as is provided for in § 16.1-274 D., but the decision on this issue was not unanimous. Some members of the Subcommittee do not feel the Commonwealth is ready, at this time, to take this step due to the lack of dispositional alternatives for these children on the local level and wish their dissent to this recommendation to be recorded in this report.

The Council supports the noncommitment of children in need of services on the basis that children involved in unacceptable, but noncriminal behavior, receive greater benefit from noncoercive, rehabilitative social services such as family counseling, youth service bureaus, health agencies, educational and employment opportunities and other forms of community treatment. The underlying philosophy of the juvenile court is that rehabilitative service, not punishment, should be provided to nonconforming children to help them become law-abiding and productive citizens. Incarceration in a State institution of the truant, the runaway and the child who is beyond the control of his parents serves no humanitarian or rehabilitative purpose. It is unwarranted punishment and unjust because it is disproportionate to the harm done by the child's noncriminal behavior.

The Juvenile Justice and Delinquency Prevention Act of 1974 specifically prohibits the confinement of children in need of services or status offenders in juvenile detention or correctional facilities. Section 223(a)(12). The Act does provide that such children may be placed in "shelter facilities" but these facilities may not be managed or run by the State Department of Corrections. Governor Mills E. Godwin, Jr. has elected to accept funds from the federal government



for this Act. Within two years after submission of the State's plan, the Commonwealth will be required to cease committing children in need of services to the State Board of Corrections or face a cutoff of funds.

The Council believes that the power of the juvenile court to commit children to State penal institutions where indeterminate sentences are served must be limited to criminal behavior that threatens the community. The problems of the child in need of services are in the home, the school and the community at large, and that is where they need to be resolved.

The thrust of this major recommendation by the Council and of many of the supporting proposals is that children in need of services need to be diverted out of the juvenile justice system and into non-institutional programs which are better equipped to handle them. The success of this diversion and of many other provisions being recommended in this report depends upon the development of new programs and facilities, among them, foster homes, adoptive homes, group homes and "attention homes" instead of detention homes. The schools must provide viable programs to teach the poorly motivated, educationally handicapped and culturally deprived child and learn to keep in tow the unruly youngster instead of pushing him out of school. Alternative educational programs must be developed. Community-based programs which provide treatment, educational opportunities and residential alternatives are essential to effectuate diversion from the court system and genuine rehabilitation of the unacceptable behavior of children before the court.

The Council heartily endorses the budget requests of the Division of Youth Services of the Department of Corrections for the 1976-78 biennium for community residential care facilities. Money in the amount of $8,798,227 has been requested for 1976-77, and $10,227,955 has been requested for 1977-78. Almost half of these monies will fund new or continued family-oriented group homes, community youth homes, crisis runaway homes, outreach detention and less secure detention. Full funding by the 1976 Session of the General Assembly is needed for the Commonwealth to make continued progress in upgrading its program of juvenile corrections.

The commitment of mentally defective children is provided for in § 16.1-275 of the Council's proposals. Because Title 37.1, Institutions for the Mentally Ill; Mental Health Generally, is currently being revised by the Virginia Code Commission, the Council did not consider in detail the problems associated with the commitment of children to mental health facilities. It wishes to acknowledge, however, that considerable study needs to be given to this issue in order that the rights of children who are involuntarily committed to State institutions are protected.

In Article 9, disposition, three new provisions have been added relating to foster care and termination of residual parental rights. In § 16.1-274 a dispositional alternative available to the juvenile court for the three classes of children previously discussed is placement with the local department of public welfare or social services and,

therefore, in foster care. There are approximately 12,000 children currently in foster care in Virginia, and 4,000 new children are placed in the program every year. Although foster care is intended to be temporary, many children will spend the rest of their years to maturity in foster care without the benefits of the permanency, stability and continuity in life which are essential to a normal development. Returning foster care children to their natural homes or providing a permanent home through adoption to break the foster care cycle has been the exception rather than the rule. To insure that foster children are not lost and forgotten by the system that is responsible for their welfare, there must be a periodic review of their status and of the steps being taken to find a permanent placement for them. While the Council recognizes that some local departments of public welfare or social services do an effective job of placement and review, this is certainly not a universal practice. It is to the broader problem that these recommendations must be addressed.

To effectuate this review process, pursuant to § 16.1-276, goals must be established for the child placed in foster care and his or her family, and a service plan must be developed to assure that the goals will be achieved. The agency which places the child is required to prepare the foster care plan in consultation with the child, the child's parents and any other person standing in loco parentis at the time the agency obtained custody. The plan describes, among other things, the services and support to be offered the child and parents, the participation and conduct which will be sought from the parents, the visitation to be permitted between the child and his or her parents and the nature of the placements to be provided the child. The plan must be designed to return the child home or to place him in an adoptive home or permanent foster care placement. Such a foster care plan, keyed to the individual circumstances of each child and family, lays the foundation for later review of the child's status by the juvenile and domestic relations district court. The juvenile court, pursuant to § 16.1-277, is required to review the case of every child in foster care who has not been placed in an adoptive home or permanent foster care placement twelve months after the filing of the foster care plan with the court. The intent of the foster care plan and the judicial review is to return the child to a stable home environment as soon as practicable whether it be to his natural home, an adoptive home or a permanent foster care placement. The court places the child in foster care and needs to become more involved with what happens to that child thereafter.

The provision for permanent foster care placements is a new program to be set up by amendments to § 63.1-195 and by a new § 63.1-206.1. Such a placement is made only by court order and is intended to provide an alternative to temporary foster care and its attendant instability for the child and foster parents and an alternative to adoption where the rights of the natural parent are terminated.

Section 16.1-278, termination of residual parental rights, is an important correlative provision to the previously discussed foster care sections. The present Code of Virginia lacks a detailed procedure and clear guidelines for the termination of parental



rights. The intent of this new section is to provide such a procedure and such guidelines and to protect the rights of the parent to the custody of his or her child as well as to protect the right of the child to a stable home environment. While some flexibility is needed in dealing with individual cases of neglect, abuse, entrustment or abandonment of children and any consequent termination of residual parental rights and responsibilities, evidence of certain conditions in the natural home can provide guidance for such decisions. Where parents suffer long-term mental or emotional illness, addiction to liquor, narcotics or other dangerous drugs, willfully refuse to cooperate in future planning for the child, fail to maintain contact with the child, without good cause, for specified periods of time and fail to make reasonable progress towards eliminating the conditions which led to their child's foster care placement, serious consideration should be given to terminating their rights to the child. Depending upon the conditions which led to the child's placement in foster care and upon the actions of the parents, provision is made for the commencement of termination proceedings within six to twelve months.

Several groups appearing before the Subcommittee at its public hearings and submitting written comments on the proposals requested that the procedure for review of foster care cases be an administrative one within the State Department of Welfare. Serious consideration was given to this suggestion. The Council concluded, however, that since the provisions for foster care plans, foster care review, permanent foster care placements and termination of residual parental rights all deal with substantial legal rights and responsibilities of the parent and child, these programs and procedures must be judicially administered to be effective and to protect all the parties involved.

ARTICLE 12—CONFIDENTIALITY AND EXPUNGEMENT.

Section 16.1-295 of this article is a significant new addition concerning fingerprints and photographs of children taken into custody. In this section and in succeeding provisions dealing with law enforcement records, juvenile and circuit court records and the expungement of certain documents, the Council's recommendations try to strike a balance between the need for investigative tools on the part of law enforcement officials and the right of the child and family to privacy.

It should be noted that in the language of the sections in Article 12 and in other appropriate sections in the proposals, the Council has dropped the "innocent" and "not innocent" terminology in referring to the disposition of children's cases. It is the feeling of the Council that the deviation in the juvenile court from the standard terms of "guilty" and "not guilty" serves no useful purpose and is often a source of confusion to parents and children before the court.

In addition to the previously discussed provisions, the Council urges the Virginia Supreme Court to give serious consideration to substituting a fictitious name in the style of a case in which a child is a named party in an appeal to the Supreme Court. The provisions for confidentiality of the child's records and for the child's

protection against widespread publication of his personal or family difficulties can be negated when the child's case is appealed and reported at the State and national levels with the child's real name.

ARTICLE 14—INTERSTATE COMPACT RELATING TO JUVENILES.

No changes have been made by the Council in the present law providing for the Interstate Compact Relating to Juveniles. It is not the prerogative of the states party to the compact to individually amend it. The Council wishes to point out, however, that certain purposes stated in the Compact and some of its provisions are not consistent with the philosophy and procedures of the present juvenile system in the Commonwealth or with the proposals of the Council. Consideration should be given by the Association of Juvenile Compact Administrators to revising this Compact to bring it in line with current approaches to handling troubled children.

OTHER RECOMMENDATIONS

The Council wishes to make two further recommendations which are unrelated to any of its specific legislative proposals. It urges the implementation of the Youthful Offender Law found in § 19.2-311 et seq. of the Code of Virginia. According to projections by the State Department of Corrections in its budget for the 1976-78 biennium it would cost $14,363,000 in capital outlay monies to build a youthful offender correctional center. The Council strongly endorses this requested appropriation by the Department of Corrections and urges its funding by the 1976 Session of the Virginia General Assembly.

The Council further urges that the establishment of a family court system in the Commonwealth receive serious consideration in the near future. Within the time limits of this study, it has not been practical or possible to fully explore the ramifications of implementing a family court structure in Virginia. Furthermore, the Council is aware that the State's courts not of record have only recently been reorganized and that the district court system should be given the opportunity to work. However, sufficient difficulties in the present de novo appeal procedure from the decisions of the juvenile and domestic relations district courts and in the division of responsibility for support and custody cases have been brought to the Council's attention to warrant further consideration of these matters.

## CONCLUSION

The recommendations being presented in this report have all received the careful consideration of the members of the Council. Substantial contributions have been made to the Council's work by interested professionals and citizens and the proposals contained herein have received wide exposure to the public. In this process of sharing its work and its final product with the citizens of Virginia, the Council has been impressed with the deep concern across the



Commonwealth for troubled children and families. It recognizes, however, that for the recommendations in this report to be fully implemented and for the goals it sets forth to be achieved, this concern must be channeled into the building of constructive attitudes and programs for dealing with children and families on the local level. The State spends thousands of dollars a year on each child it incarcerates only to find that this treatment often makes them a continuing problem to themselves and to society. For the majority of children the most successful treatment of behavior which is unacceptable to the community is treatment in and by the community, and this requires the wholehearted support of its citizens.

The children of Virginia are this State's most precious resource. It is the hope of this Council that the work it has done in revising the juvenile laws of Virginia will be a significant step forward in protecting and preserving the children of the State and the communities in which they live.

The Council respectfully submits this report and the accompanying legislation and recommends that the bill which proposes a new Chapter 10 in Title 16.1 of the Code of Virginia relating to juvenile and domestic relations courts be carried over to the 1977 Session of the General Assembly if there is insufficient time for its full consideration during the 1976 Session.

Respectfully submitted,

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Willard J. Moody, Chairman

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*Senator Gartlan dissents from so much of this report as it relates to foster care review and termination of parental rights.



## APPENDICES

A BILL to amend and reenact §§ 63.1-56, 63.1-195, 63.1-204 and 63.1-248.9, as severally amended, of the Code of Virginia; to further amend the Code of Virginia by adding in Title 16.1 a chapter numbered 10, consisting of sections numbered 16.1-222 through 16.1-324 and by adding §§ 53-327.1, 53-329.1 and 63.1-206.1; and to repeal Chapter 8 of Title 16.1 of the Code of Virginia consisting of sections numbered 16.1-139 through 16.1-217, and § 63.1-248.12, as severally amended, the amended, added and repealed sections relating to the establishment of juvenile and domestic relations district courts and other laws regarding services to children.

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-56, 63.1-195, 63.1-204 and 63.1-248.9, as severally amended, of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 16.1 a chapter numbered 10, consisting of sections numbered 16.1-222 through 16.1-324 and by adding §§ 53-327.1, 53-329.1 and 63.1-206.1 as follows:

*TITLE 16.1.*

*CHAPTER 10.*

*JUVENILE AND DOMESTIC RELATIONS DISTRICT COURTS.*

*Article 1.*

*General Provisions.*

*§ 16.1-222. Short title.—The short title of the statutes embraced in this chapter is "Juvenile and Domestic Relations District Court Law."*

RESOURCE: § 16.1-139

No change

*§ 16.1-223. Purpose and intent.—This law shall be construed liberally and as remedial in character; and the powers hereby conferred are intended to be general to effect the beneficial purposes herein set forth. It is the intention of this law that in all proceedings the welfare of the child and the family is the paramount concern of the State and to the end that this humane purpose may be attained, the judge shall possess all necessary and incidental powers and authority, whether legal or equitable in their nature.*

*This law shall be interpreted and construed so as to effectuate the following purposes:*

*1. To divert from the juvenile justice system, to the extent possible, consistent with the protection of the public safety, those children who can be cared for or treated through alternative programs;*

*2. To provide non-criminal judicial procedures through which the provisions of this law are executed and enforced and in which the parties are assured a fair hearing and their constitutional and other rights are recognized and enforced; and*

*3. To separate a child from such child's parents, guardian, legal custodian or other person standing in loco parentis only when the child's welfare is endangered or it is in the interest of public safety.*

*4. To protect the community against those acts of its citizens which are harmful to others and to reduce the incidence of delinquent behavior.*

RESOURCE: § 16.1-140

*§ 16.1-224. Definitions.—When used in this chapter, unless the context otherwise requires:*

*A. "Abused or neglected child" means any child whose parents or other person responsible for his care:*

*1. creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions;*

*2. neglects or refuses to provide care necessary for his health, provided, however, that no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child;*

*3. abandons such child; or*

*4. commits or allows to be committed any sexual act upon a child in violation of the law.*

*B. "Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he or she has been placed for the purposes of adoption or in which he or she has been legally adopted by another member of the household.*

*C. "Adult" means a person eighteen years of age or older;*

*D. "Child," "juvenile" or "minor" means a person less than eighteen years of age;*

*E. "Child welfare agency" means a child-placing agency, child-caring institution or independent foster home as defined in § 63.1-195.*

*F. "Child in need of services" means:*

*1. a child who while subject to compulsory school attendance is habitually and without justification absent from school; or*

*2. a child who is habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, legal custodian or other person standing in loco parentis; or*

*3. a child who habitually deserts or abandons his or her family.*

*Provided, however, to find that a child falls within any of the above three classes (i) the conduct complained of must present a clear and substantial danger to the child's life or health or (ii) the child or his or her family must be in need of treatment, rehabilitation or*

*services not presently being received and (iii) the intervention of the court must be essential to provide the treatment, rehabilitation or services needed by the child or his or her family.*

*G. "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile and domestic relations district court of each county or city;*

*H. "Delinquent act" means an act designated a crime under the law of this State, or an ordinance of any city, county, town or service district, or under federal law. Offenses arising under Title 46.1, other than offenses pursuant to § 46.1-176, shall not be considered delinquent acts, and jurisdiction of such offenses committed by a child shall lie with the appropriate general district court. Provided, however, that when a child is charged with a violation of § 18.2-266 or § 46.1-176 and is at the same time charged with another offense or offenses involving his or her operation of a motor vehicle, jurisdiction shall lie with the juvenile and domestic relations district court to try and dispose of such other offense or offenses.*

*I. "Delinquent child" means a child who has committed a delinquent act or an adult who has committed a delinquent act prior to his or her eighteenth birthday;*

*J. "Department" means the Department of Corrections and "Director" means the administrative head in charge thereof or such of his assistants and subordinates as are designated by him to discharge the duties imposed upon him under this law;*

*K. "Foster care" or "temporary foster care" means the provision of substitute care and supervision, for a child committed or entrusted to a local board of public welfare or child welfare agency or for whom the board or child welfare agency has accepted supervision, in a temporary living situation until the child can return to his or her family or be placed in a permanent foster care placement or in an adoptive home.*

*L. "Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.*

*M. "The judge" means the judge, or the substitute judge of the juvenile and domestic relations district court of each county or city;*

*N. "This law," "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter;*

*O. "Legal custody" means a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine where and with whom he shall live within the State, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities.*

*P. "Permanent foster care placement" means the place of residence in which a child resides and in which he or she has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he or she reaches the age of majority. A permanent foster care placement may be a place of residence of any natural person or persons, a group home, an institution or any one placement deemed appropriate to meet a child's needs on a long-term basis.*

*Q. "Shelter care" means the temporary care of children in physically unrestricting facilities pending court disposition.*



*R. "State Board" means the State Board of Corrections.*

*S. "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship of the person, including but not limited to the right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility for support.*

RESOURCE: § 16.1-141

*§ 16.1-225. This chapter controlling in event of conflict.—Whenever any specific provision of this chapter differs from or is in conflict with any provision or requirement of any other chapters of this title relating to the same or a similar subject, then such specific provision shall be controlling with respect to such subject or requirement.*

RESOURCE: § 16.1-142

No change

***Article 2.***

**Organization and Personnel**

*§ 16.1-226. Organization and operation of juvenile and domestic relations district courts.—The provisions of Chapter 4.1 (§ 16.1-69.1 et seq.) of this title establishing the district court system shall be controlling over the provisions of this chapter with respect to the organization, judges, administration and supervision, personnel, and financing of the juvenile and domestic relations district courts in the event of any conflict between the provisions of Chapter 4.1 and this chapter.*

RESOURCE: § 16.1-153.1

No change

*§ 16.1-227. Judge to determine form of records; duty to furnish data to Director; rules of procedure.—The chief judge may adopt and publish rules not in violation of law or in conflict with rules adopted pursuant to Chapter 4.1 (§ 16.1-69.1 et seq.) of this title to regulate the conduct of the clerks and employees of the court, which rules shall be construed and enforced liberally in furtherance of the remedial purposes of this chapter. Insofar as is practicable all such records and rules shall be uniform throughout the State.*

RESOURCE: § 16.1-154

No change

*§ 16.1-228. Commonwealth's Attorney to assist court, and represent State on appeal.—The judge may, in his discretion, call upon the Commonwealth's Attorney of his city or county to assist the court in any proceeding under this law, and the Commonwealth's Attorney shall render such assistance when so requested.*

*The Commonwealth's Attorney shall represent the State in all cases appealed from the juvenile and domestic relations district court to the circuit court.*

RESOURCE: § 16.1-155

No change

*§ 16.1-229. Department to develop court service units; division of supervision of probation and detention; appointment and removal of probation officers.—A. Within funds*

*appropriated for the purpose, it shall be a function of the Department to develop and operate, except as hereinafter provided, probation and other court services for juvenile and domestic relations district courts in order that all children coming within the jurisdiction of such courts throughout the State shall receive the fullest protection of the court. To this end the Director is empowered to establish a division of supervision of probation and other court services in his department for the state-operated units and to appoint a head thereof, who shall have training and experience in the fields of social science and social services with juvenile and domestic relations district courts, except as hereafter provided. The Director shall also appoint such other employees as he may find to be necessary to carry out properly the responsibilities of the Department relative to the development, supervision and operation of probation and other court services throughout the State as set forth in this chapter.*

*B. The salaries of the persons employed pursuant to this section, except as otherwise provided in § 16.1-306 as it pertains to employees of juvenile detention homes and probation houses, shall be paid out of funds appropriated for such purpose to the Department of Corrections. The division shall have access to all probation offices, other social services and to their records.*

*C. The State Board shall establish minimum standards for court service staffs and related supportive personnel and promulgate regulations pertaining to their appointment and function to the end that uniform services, insofar as is practical, will be available to juvenile and domestic relations district courts throughout the State. In counties or cities now served by regional juvenile and domestic relations courts or where specialized court service units are not provided, and in any county or city which provided specialized services on June thirtieth, nineteen hundred seventy-three, that requests the development of a court service unit, appointment to positions in such units shall be based on merit as provided in Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.*

*D. No person shall be assigned to or discharged from the state-operated court service staff of a juvenile and domestic relations district court except as provided in Chapter 10 (§ 2.1-110 et seq.) of Title 2.1, nor without the prior mutual approval of the judge thereof and the Director; provided, however, that the chief judge of any such court shall be empowered, for good cause, after due notice and opportunity to be heard, to order the transfer of any person from the court service staff of his court; and provided further, that the Director shall likewise be empowered to order such transfer or separation subject only to the limitations of Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.*

## RESOURCE: § 16.1-203

*§ 16.1-230. Duties of such division.—The Director shall cause such division to study the conditions existing in the several cities and counties, to confer with the judges of the juvenile and domestic relations district courts, the superintendents and boards of public welfare, and other appropriate officials, as the case may be, and to plan, establish and operate unless otherwise provided an adequate and coordinated program of probation and related services to all juvenile and domestic relations district courts in counties or cities heretofore served by regional juvenile and domestic relations courts, and where specialized probation and related court services are not being provided as of July one, nineteen hundred seventy-three, and to counties and cities which request a development of a court service unit with the approval of the governing bodies after consultation with the chief juvenile and domestic relations district court judge.*

*In each county and city in which there is located an office for a State juvenile and domestic relations district court service unit such jurisdiction shall provide suitable quarters and utilities, including telephone service, for such court service unit staff. Such county or city shall also provide all necessary furniture and furnishings for the efficient operation of the unit. All other office equipment and supplies, including postage, shall be furnished by the State and shall be paid out of the appropriation for criminal charges.*

*In counties and cities providing specialized court service programs prior to July one, nineteen hundred seventy-three, which do not request the development of a state-operated court service unit, it shall be the duty of the division to insure that minimum standards established by the State Board are adhered to, to confer with the judges of the juvenile and domestic relations district court and other appropriate officials as the case may be, and to assist in the continued development and extension of an adequate and coordinated program of court services, probation and detention facilities and other specialized services and facilities to such juvenile and domestic relations district courts.*

## RESOURCE: § 16.1-204

*§ 16.1-231. How probation and related court services provided.—Probation and related court services shall be provided through the following means:*

*A. State court service units. - The Department shall develop and operate probation and related court services in counties or cities heretofore served by regional juvenile and domestic relations district courts and where specialized probation and related court services are not being provided as of July one, nineteen hundred seventy-three, and make such services available to juvenile and domestic relations district courts, as required by this chapter and by regulations established by the Board. All other counties or cities may request the development of a state-operated court service unit with the approval of their governing bodies after consultation with the chief judge of the juvenile and domestic relations district court of such jurisdiction. In counties or cities now served by regional juvenile and domestic relations district courts and where specialized probation and related court services are not being provided as of July one, nineteen hundred seventy-three, the judge or judges of the juvenile and domestic relations district court may from a list of eligibles certified by the Director appoint one or more suitable persons as probation officers and related court service personnel in accordance with established qualifications and regulations.*

*B. Local units. - In counties and cities providing specialized court services as of July one, nineteen hundred seventy-three, who do not request the development of a state-operated court service unit, the chief judge or judges of the juvenile and domestic relations district court may, from a list of eligibles certified by the Director or by the governing body or bodies of the district appoint one or more suitable persons as probation officers and related court service personnel in accordance with established qualifications and regulations and shall develop and operate probation, detention and related court services.*

## RESOURCE: § 16.1-205

*§ 16.1-232. Supervisory officer.—In any court where more than one probation officer or other court services staff has been appointed under the provisions of this law, one or more probation officers may be designated to serve in a supervisory position by the chief judge of the juvenile and domestic relations district court.*

*The transfer or demotion of supervisory officers of State court service units shall be made only for good cause shown, in accordance with Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. The transfer or demotion of supervisory officers of local court service units shall be made only for good cause shown, after due notice and opportunity to be heard.*

## RESOURCE: § 16.1-207

*§ 16.1-233. Powers, duties and functions of probation officer.—In addition to any*

*other powers and duties imposed by this law, a probation officer appointed hereunder shall:*

*A. Investigate all cases referred to him by the judge or any person designated so to do, and shall render reports of such investigation as required;*

*B. Supervise such persons as are placed under his supervision and shall keep informed concerning the conduct and condition of every person under his supervision by visiting, requiring reports and in other ways, and shall report thereon as required;*

*C. Under the general supervision of the director of the court service unit, investigate complaints and accept for informal supervision cases wherein such handling would best serve the interests of all concerned;*

*D. Use all suitable methods not inconsistent with conditions imposed by the court to aid and encourage persons on probation and to bring about improvement in their conduct and condition;*

*E. Furnish to each person placed on probation a written statement of the conditions of his probation and instruct him regarding the same;*

*F. Keep records of his work and perform such other duties as the judge or other person designated by him or the Director shall require;*

*G. Have the authority to administer oaths and take acknowledgements; and*

*H. Have the authority of a police officer in carrying out his responsibilities as set forth in this law.*

RESOURCE: § 16.1-208

*§ 16.1-234. Compensation of probation officers, court service staff members and related court service personnel.—The compensation of probation officers and other court service staff members appointed in accordance with § 16.1-231 B. shall be fixed by the governing body of the city or county in which they serve, in accordance with minimum standards fixed by regulation of the State Board, and shall be paid out of the county or city treasury; provided that one half of such compensation shall be reimbursed to any city or county complying with the minimum standards set by the State Board from funds appropriated to the Department of Corrections. Except that, insofar as any funds from the Division of Justice and Crime Prevention of the State of Virginia or from other public fund sources outside of the provisions of this law are used in compensating such personnel, such funds shall not be considered State funds.*

*Compensation of all other probation officers and related court service personnel appointed in accordance with § 16.1-231 A. shall be fixed in accordance with minimum standards fixed by regulation of the State Board and paid from funds appropriated to the Department of Corrections, except that salary schedules shall be established on a basis competitive with those of other positions requiring similar education and experience and adjusted to compensate for economic differentials among the various geographic regions of the State. Personnel transferred from local and regional court staffs shall suffer no reduction in pay and shall transfer into the State program all accrued leave and other benefits allowable under Chapter 10 (§ 2.1-110 et seq.) of Title 2.1.*

RESOURCE: § 16.1-206

No change



*§ 16.1-235. Traveling expenses of probation officers and other officers of the court.—In counties and cities providing specialized court service programs prior to July one, nineteen hundred seventy-three, as provided in §§ 16.1-230 and 16.1-231, and under the rules of the Department the traveling expenses incurred by a probation officer, court service officer or other officer of the court when traveling under the order of the judge, shall be paid out of the county or city treasury; provided that one half of such compensation shall be reimbursed to the city or county by the State Treasurer out of funds appropriated in the general appropriation act for criminal costs.*

RESOURCE: § 16.1-213

*§ 16.1-236. Citizens advisory council.—A. The governing bodies of each county and city served by a court service unit shall appoint one or more members to a citizens advisory council, in total not to exceed fifteen members, and the chief judge of the juvenile and domestic relations district court shall appoint one or more members to the advisory council, in total not to exceed five members. The duties of the council shall be as follows:*

*1. To advise and cooperate with the court upon all matters affecting the working of this law and other laws relating to children, their care and protection and to domestic relations;*

*2. To consult and confer with the court and director of the court service unit from time to time relative to the development and extension of the court service program;*

*3. To visit as often as they conveniently can institutions and associations receiving children under this law, and to report to the court from time to time and at least annually in its report made pursuant to subparagraph 5 hereof the conditions and surroundings of the children received by or in charge of any such persons, institutions or associations;*

*4. To make themselves familiar with the work of the court under this law;*

*5. To make an annual report to the court and the participating governing bodies on the work of the council.*

*B. Traveling expenses of the members of the citizens advisory council shall be paid from funds appropriated to the Department of Corrections in accordance with rules and regulations adopted by the State Board.*

*C. Nothing in this section shall be construed to prohibit the judge of a juvenile and domestic relations district court from appointing a separate advisory board should he deem it advisable.*

*D. One member selected by each citizens advisory council shall serve on a central advisory council to consult and confer with the Director and other appropriate staff of the Department to assist in carrying out the objectives of the court service program, insofar as possible.*

RESOURCE: §§ 16.1-157, 16.1-203.

***Article 3.***

***Jurisdiction and Venue.***

*§ 16.1-237. 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 or delinquent;*

*2. who is abandoned by his parent or other custodian;*

*3. whose custody, visitation or support is a subject of controversy or requires determination; provided, however, that in such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-240 hereof;*

*4. who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or whose parent or parents for good cause desire to be relieved of his care and custody;*

*5. where the termination of residual parental rights and responsibilities is sought; provided, however, that in such cases jurisdiction shall be concurrent with and not exclusive of courts having equity jurisdiction, as provided in § 16.1-240 hereof.*

*B. The commitment of a mentally defective or mentally disordered child who is within the purview of this law. Such commitment shall be in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1 of the Code.*

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

*D. Judicial consent for emergency surgical or medical treatment for a child when the consent of his or her parent, guardian, legal custodian or other person standing in loco parentis is unobtainable because such parent, guardian, legal custodian or other person standing in loco parentis is not a resident of this State or his or her whereabouts is unknown or he or she cannot be consulted with promptness, reasonable under the circumstances.*

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

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

*1. who has been abused or neglected;*

*2. who is the subject of an entrustment agreement entered into pursuant to § 63.1-56 or § 63.1-204 or is otherwise before the court pursuant to subsection A.4. of § 16.1-274;*

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

*G. Petitions filed by or on behalf of a child or such child's parent, guardian, legal custodian or other person standing in loco parentis for the purpose of obtaining treatment, rehabilitation or other services which are required by law to be provided for that child or such child's parent guardian, legal custodian or other person standing in loco parentis; provided, however, that jurisdiction in such cases shall be concurrent with and not exclusive of that of courts having equity jurisdiction.*

*H. In any case where a child is not qualified to obtain a work permit under other provisions of law.*

*I. The prosecution and punishment of persons charged with ill-treatment, abuse, abandonment or neglect of children or with any violation of law which 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 except murder and manslaughter; provided, that in prosecution for other felonies over which the court shall have jurisdiction, such jurisdiction shall be limited to that of examining magistrate; and*

*J. All offenses committed by one spouse against the other spouse, except murder or manslaughter; provided, that in prosecutions for felonies over which the court shall have jurisdiction, said jurisdiction shall be limited to that of examining magistrate.*

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

RESOURCE: § 16.1-158

*§ 16.1-238. Retention or resumption of jurisdiction.—When jurisdiction has been obtained by the court in the case of any child, such jurisdiction may be retained by the court until the child becomes twenty-one years of age, except when he is in the custody of the Department or when jurisdiction is divested under the provisions of § 16.1-240.*

RESOURCE: § 16.1-159

*§ 16.1-239. Venue.—A. Proceedings with respect to children under this law shall:*

*1. if delinquency is alleged, be commenced in the city or county where the acts constituting the alleged delinquency occurred or they may, with the written consent of the child and the Commonwealth's Attorney for both jurisdictions, be commenced in the city or county where the child resides; and*

*2. in all other proceedings, be commenced in the city or county where the child resides or in the city or county where the child is present when the proceedings are commenced.*

*B. If the child resides in a city or county of the State and the proceeding is commenced in a court of another city or county, that court, on its own motion or a motion of a party made at any time prior to final disposition, may, after adjudication, transfer the proceeding to the city or county of the child's residence for such further action or proceedings as the court receiving the transfer may deem proper. Certified copies of all legal and social records pertaining to the case shall accompany the transfer.*

RESOURCE: § 16.1-160

*§ 16.1-240. Concurrent jurisdiction.—Nothing contained in this law shall deprive any other court of the concurrent jurisdiction to determine the custody of children upon a writ of habeas corpus under the law, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of causes pending in such courts, provided that when a circuit court shall have taken jurisdiction thereof by entry of an order relating to custody the juvenile and domestic relations district courts shall be divested of such jurisdiction. Nothing in this section shall deprive the juvenile and domestic relations district courts of the jurisdiction to temporarily place a child in the custody of any person when that child has been adjudicated neglected or delinquent subsequent to the order of any circuit court.*

RESOURCE: § 16.1-161

*§ 16.1-241. Transfer from other courts.—If during the pendency of a criminal or quasi-criminal proceeding against any person in any other court it shall be ascertained for the first time that the person was under the age of eighteen years at the time of committing the alleged offense and jurisdiction over such person and offense lies within the juvenile court, such court shall forthwith transfer the case, together with all papers, documents and evidence connected therewith, to the juvenile court of the city or county having jurisdiction. The court making the transfer shall determine who is to have custody of the child pending action by the juvenile court pursuant to § 16.1-243.*

RESOURCE: § 16.1-175

### *Article 4.*

### *Immediate Custody, Arrest, Detention and Shelter Care.*

*§ 16.1-242. When and how a child may be taken into immediate custody.—No child may be taken into immediate custody except:*

*A. With a detention order issued by the judge or the intake officer of the juvenile and domestic relations district court in accordance with the provisions of this law or with a warrant; or*

*B. When a child is alleged to be in need of services and (i) there is a clear and substantial danger to the child's life or health or (ii) the assumption of custody is necessary to insure the child's appearance before the court; or*

*C. When, in the presence of the officer who makes the arrest, a child has committed an act designated a crime under the law of this State, or an ordinance of any city, county, town or service district, or under federal law and the officer believes that such is necessary for the protection of the public interest; or*

*D. When there is probable cause to believe that a child has committed an offense which if committed by an adult would be a felony; or*

*E. When a law enforcement officer has probable cause to believe that a child committed to the State Board of Corrections has run away or that a child has escaped from a jail or detention home; or*

*F. When a law enforcement officer has probable cause to believe a child has run away from a residential, child-caring facility or home in which he had been placed by the court, the local department of public welfare or social services or a licensed child welfare agency.*



RESOURCE: § 16.1-194

*§ 16.1-243. Duties of person taking child into custody.—A. A person taking a child into custody pursuant to the provisions of § 16.1-242 A., during such hours as the judge or intake officer is reasonably available, shall, with all practicable speed, and in accordance with the provisions of this law and the rules of court pursuant thereto, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.*

*B. A person taking a child into custody pursuant to the provisions of subsections B., C. or D. of § 16.1-242, during such hours as a judge or intake officer is reasonably available, shall, with all practicable speed, and in accordance with the provisions of this law and the rules of court pursuant thereto:*

*1. release the child to such child's parents, guardian, custodian or other suitable person able and willing to provide supervision and care for such child and issue oral counsel and warning as may be appropriate; or*

*2. release the child to such child's parents, guardian, legal custodian or other person standing in loco parentis upon their promise to bring the child before the court when requested; or*

*3. if not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, and orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.*

*C. A person taking a child into custody pursuant to the provisions of subsections E. and F. of § 16.1-242, during such hours as a judge or intake officer is reasonably available, shall, with all practicable speed and in accordance with the provisions of this law and the rules of court pursuant thereto:*

*1. release the child to the institution, facility or home from which he ran away or escaped; or*

*2. if not released, bring the child to the judge or intake officer of the court and, in the most expeditious manner practicable, give notice of the action taken, together with a statement of the reasons for taking the child into custody, in writing to the judge or intake officer, orally or in writing to the institution, facility or home in which the child had been placed and orally or in writing to the child's parent, guardian, legal custodian or other person standing in loco parentis.*

*D. A person taking a child into custody pursuant to the provisions of § 16.1-242 A., during such hours as the judge or intake officer is not reasonably available, shall with all practicable speed and in accordance with the provisions of this law and the rules of court pursuant thereto:*

*1. release the child taken into custody pursuant to a warrant on bail or recognizance pursuant to Chapter 9 of Title 19.2; or*

*2. place the child in a detention home or in shelter care; or*

*3. place the child in a jail subject to the provisions of § 16.1-245.*

*E. A person taking a child into custody pursuant to the provisions of subsections B., C. or D. of § 16.1-242. during such hours as the judge or intake officer is not reasonably available, shall:*

*1. release the child pursuant to the provisions of subsection B.1. or B.2., hereof; or*

*2. release the child on bail or recognizance pursuant to Chapter 9 of Title 19.2; or*

*3. place the child taken into custody pursuant to § 16.1-242 B. in shelter care after the issuance of a detention order; or*

*4. place the child taken into custody pursuant to subsections C. or D. of § 16.1-242 in shelter care or in a detention home after the issuance of a warrant by a duly authorized judicial officer; or*

*5. place the child in a jail subject to the provisions of § 16.1-245 after the issuance of a warrant by a duly authorized judicial officer.*

*F. A person taking a child into custody pursuant to the provisions of § 16.1-242 E., during such hours as the judge or intake officer is not reasonably available, shall:*

*1. release the child to the institution or facility from which he ran away or escaped; or*

*2. detain the child in a detention home or in a jail subject to the provisions of § 16.1-245 after the issuance of a warrant by a duly authorized judicial officer .*

*G. A person taking a child into custody pursuant to the provisions of § 16.1-242 F., during such hours as the judge or intake officer is not available, shall:*

*1. release the child to the facility or home from which he ran away; or*

*2. detain the child in shelter care after the issuance of a warrant by a duly authorized judicial officer.*

*H. If a parent, guardian or other custodian fails, when requested, to bring the child before the court as provided in subsections B.2. and E.1. hereof, the court may issue a detention order directing that the child be taken into custody and be brought before the court.*

## RESOURCE: § 16.1-197

*§ 16.1-244. Criteria for detention or shelter care.—A. A child taken into custody and brought before the judge, intake officer or authorized judicial officer pursuant to § 16.1-243 shall immediately be released upon the ascertainment of the necessary facts, to the care, custody and control of such child's parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child, either on bail or recognizance pursuant to Chapter 9 of Title 19.2 or under such conditions as may be imposed or otherwise, except in situations where:*

*1. the child has no parent, guardian, custodian or other suitable person able and willing to provide supervision and care for such child; or*

*2. the release of the child would constitute an unreasonable danger to the person or property of others where the child is alleged to be delinquent; or*

*3. the release of such child would present a clear and substantial threat of serious harm to such child's life or health; or*

*4. the child has, without good cause, previously failed to appear for hearings before the court.*

*B. The criteria for continuing the child in detention or shelter care as set forth in subsection A. of this section, shall govern the decisions of all persons involved in determining whether the continued detention or shelter care is warranted pending court disposition, and such criteria shall be supported by clear and convincing evidence in support of the decision not to release the child.*

## RESOURCE: § 16.1-199

*§ 16.1-245. Places of confinement for children.—A. If a court orders that a child remain in detention or shelter care pursuant to § 16.1-244, such child may be detained, pending a court hearing, in the following places:*

*1. a licensed foster home or a home otherwise authorized by law to provide such care;*

*2. a facility operated by a licensed child welfare agency;*

*3. if a child is alleged to be delinquent, in a detention home or group home approved by the Department;*

*4. any other suitable place designated by the court and approved by the Department; provided, however, that no place of detention or shelter care may be designated if it is a facility to which children adjudicated delinquent may be committed under this law.*

*B. A delinquent child or a child alleged to be delinquent who is fifteen years of age or older may be detained in a jail or other facility for the detention of adults only if:*

*1. space in a facility designated in subsection A. hereof is unavailable; provided, however, if the child has previously been before the juvenile court and has by waiver or transfer been treated as an adult in the circuit court, this provision shall not apply;*

*2. the detention is in a room or ward entirely separate and removed from adults;*

*3. adequate supervision is provided; and*

*4. the facility is approved by the Department.*

*C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a child, who is or appears to be under the age of eighteen years, is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.*

*D. When a case is transferred to the circuit court in accordance with the provisions of § 16.1-264 or § 16.1-265, the child if in confinement shall be transferred to a jail or other facility for the detention of adults subject to the limitations of subsection B. hereof.*

*E. If, in the judgment of the custodian of the child designated in subsection A. hereof,*

*a child fifteen years of age or older has demonstrated that he or she is a threat to the security or safety of the other children detained or the staff of the home or facility, the judge shall determine whether such child should be transferred to another juvenile facility including a jail or other place of detention for adults pursuant to subsection B. hereof, after a hearing before the court.*

RESOURCE: §§ 16.1-196, 16.1-199.

*§ 16.1-246. Procedure for detention hearing.—A. When a child has been taken into immediate custody and not released as provided in § 16.1-243 or § 16.1-244, such child shall be brought before a judge on the next day on which the court sits within the county or city wherein the charge against the child is pending; provided, that in the event the court does not sit within the county or city on the following day, such child shall be brought before a judge within a reasonable time, not to exceed seventy-two hours, after he or she has been taken into custody.*

*B. Notice of the detention hearing, either oral or written, stating the time, place and purpose of the hearing shall be given to the parent, guardian, legal custodian or other person standing in loco parentis if they can be found and to the child if twelve years of age or over.*

*C. During the detention hearing, the judge shall advise the parties of the right to counsel pursuant to § 16.1-261. The parties shall be informed of the child's right to remain silent with respect to any allegation of delinquency. They shall also be informed of the contents of the petition.*

*D. When the judge finds that a child's full-time detention is not required, the court shall order his release, and in so doing, may impose one or more of the following conditions singly or in combination:*

*1. place the child in the custody of a parent, guardian, legal custodian or other person standing in loco parentis under their supervision, or under the supervision of an organization or individual agreeing to supervise him; or*

*2. place restrictions on the child's travel, association or place of abode during the period of his release; or*

*3. impose any other condition deemed reasonably necessary and consistent with the criteria for detaining children specified in § 16.1-244; or*

*4. release the child on bail or recognizance in accordance with the provisions of Chapter 9 of Title 19.2.*

*E. An order releasing a child on any of the conditions specified in this section may, at any time, be amended to impose additional or different conditions of release or to return the child to custody for failure to conform to the conditions previously imposed.*

*F. All relevant and material evidence helpful in determining the need for detention may be admitted by the court even though not competent in a hearing on the petition.*

*G. If the child is not released and a parent, guardian, legal custodian or other person standing in loco parentis is not notified and does not appear or does not waive appearance at the hearing, upon the request of such person, the court shall rehear the matter on the next day on which the court sits within the county or city wherein the charge against the child is pending; provided, that in the event the court does not sit within the county or city on the following day, such hearing shall be held before a judge within a reasonable time, not to exceed seventy-two hours, after the request.*



RESOURCE: § 16.1-173

Substantially revised

*§ 16.1-247. Emergency removal order.—A. A child may be taken into immediate custody and placed in shelter care pursuant to an emergency removal order in cases of abuse or neglect. Such order may be issued ex parte by the court upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that:*

*1. the child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition; and*

*2. there are no alternatives less drastic than removal of the child from his or her home which could reasonably protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, pyschological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-249.*

*B. Whenever a child is taken into immediate custody pursuant to an emergency removal order, a hearing shall be held in accordance with § 16.1-248 as soon as practicable, but in no event later than five days after the removal of the child.*

RESOURCE: New provision

*§ 16.1-248. Preliminary removal order; hearing.—A. A preliminary removal order in cases of abuse and neglect may be issued by the court after a hearing, which shall be in the nature of a preliminary hearing rather than a final determination of custody.*

*B. Prior to the removal hearing, notice of the hearing shall be given at least twenty-four hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she is twelve years of age or older. If notice to the parents, guardian, legal custodian or other person standing in loco parentis cannot be given despite diligent efforts to do so, the hearing shall be held nonetheless, and the parents, guardian, legal custodian or other person standing in loco parentis shall be afforded a later hearing on their motion regarding a continuation of the summary removal order. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate removal of the child.*

*C. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-261.*

*D. At the removal hearing the child and his or her parent, guardian, legal custodian or other person standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.*

*E. In order for a preliminary order to issue or for an existing order to be continued, the petitioning party or agency must prove:*

*1. the child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or*

*left in the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition; and*

*2. there are no alternatives less drastic than removal of the child from his or her home which could reasonably and adequately protect the child's life or health pending a final hearing on the petition. The alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-249.*

*F. If the court determines that pursuant to paragraph E. hereof the removal of the child is proper, the court shall:*

*1. order that the child be placed in the care and custody of a suitable person, persons or agency, including a placement in the care and custody of a nearest kin or personal friend; and*

*2. order that reasonable visitation be allowed between the child and his or her parents, guardian, legal custodian or other person standing in loco parentis, if such visitation would not endanger the child's life or health.*

RESOURCE: New provision

*§ 16.1-249. Preliminary protective order.—A. Upon the motion of any person or upon the court's own motion, the court may issue a preliminary protective order, after a hearing, if necessary to protect a child's life, health or normal development pending the final determination of a petition filed under this law. Such order may require a child's parents, guardian, legal custodian or other person standing in loco parentis to observe reasonable conditions of behavior for a specified length of time, including but not limited to the following:*

*1. to abstain from offensive conduct against the child or against the other parent or against any person to whom custody of the child is awarded;*

*2. to cooperate in the provision of reasonable services or programs designed to protect the child's life, health or normal development;*

*3. to allow persons named by the court to come into the child's home at reasonable times designated by the court to visit the child or inspect the fitness of the home and to determine the physical or emotional health of the child;*

*4. to allow visitation with the child by persons entitled thereto, as determined by the court; or*

*5. to refrain from acts of commission or omission which tend to endanger the child's life, health or normal development.*

*B. A preliminary protective order may be issued ex parte upon a petition supported by an affidavit or by sworn testimony in person before the judge or intake officer which establishes that the child would be subjected to an imminent threat to life or health to the extent that delay for the provision of an adversary hearing would be likely to result in serious or irremediable injury to the child's life or health; provided, however, that following the issuance of an ex parte order the court shall provide an adversary hearing to the affected parties within the shortest practicable time not to exceed five days after the issuance of the order.*



*C. Prior to the hearing required by this section, notice of the hearing shall be given at least twenty-four hours in advance of the hearing to the guardian ad litem for the child, to the parents, guardian, legal custodian or other person standing in loco parentis of the child and to the child if he or she be twelve years of age or older. The notice provided herein shall include (i) the time, date and place for the hearing and (ii) a specific statement of the factual circumstances which allegedly necessitate the issuance of a preliminary protective order.*

*D. All parties to the hearing shall be informed of their right to counsel pursuant to § 16.1-261.*

*E. At the hearing the child and his or her parents, guardian, legal custodian or other person standing in loco parentis shall have the right to confront and cross-examine all adverse witnesses and evidence and to present evidence on their own behalf.*

*F. Nothing in this section enables the court to remove a child from the custody of his or her parents, guardian, legal custodian or other person standing in loco parentis, and no order hereunder shall be entered against a person over whom the court is not given jurisdiction as provided in subsection F. of § 16.1-237.*

RESOURCE: New provision

*§ 16.1-250. Limitation on transportation of children.—In no case shall a child known or alleged to be under the age of fifteen years be transported or conveyed in a police patrol wagon.*

*No child shall be transported with adults suspected of or charged with criminal acts.*

RESOURCE: § 16.1-196

*§ 16.1-251. Limitation as to issuance of warrants for children.—Except as otherwise provided in § 16.1-243, no warrant of arrest shall be issued for any child except when authorized by the judge or intake officer of a juvenile court.*

RESOURCE: § 16.1-195

*§ 16.1-252. Interference with or obstruction of officer; concealment or removal of child.—No person shall interfere with or obstruct any officer, juvenile probation officer or other officer or employee of the court in the discharge of his duties under this law, nor remove or conceal or cause to be removed or concealed any child in order that he or she may not be brought before the court, nor interfere with or remove or attempt to remove any child who is in the custody of the court or of an officer or who has been lawfully committed under this law. Any person willfully violating any provision of this section is guilty of a class 1 misdemeanor.*

RESOURCE: § 16.1-191

*§ 16.1-253. Bonds and forfeitures thereof.—All bonds and other undertakings taken and approved by any judicial officer as defined in § 19.2-119, either for the appearance of any person or for the performance of any other duty or undertaking set forth in the bond, shall be valid and enforceable even if the principal in the bond shall be a person under eighteen years of age. In the event of a failure upon the part of the principal or sureties in any bond taken in such court to faithfully carry out and discharge the undertakings of such bond, then, in that event, the judge shall have the right to declare the bond forfeited and to certify the same to the Commonwealth's Attorney of the city or county who shall proceed therein in the manner provided by law. The complainant in nonsupport cases shall*

*not be required to furnish an indemnifying bond.*

RESOURCE: § 16.1-189

***Article 5.***

***Intake, Petition and Notice.***

*§ 16.1-254. Procedure in cases of adults.—A. In cases where an adult is charged with violations of the criminal law pursuant to subsections I. or J. of § 16.1-237, the procedure and disposition applicable in the trial of such cases in general district court shall be applicable to trial in juvenile court. The provisions of this law shall govern in all other cases involving adults.*

*B. Proceedings in cases of adults may be instituted on petition or complaint by any interested party, or on a warrant issued as provided by law, or upon the court's own motion. A reasonable opportunity to appear and be heard shall be afforded the defendant.*

RESOURCE: § 16.1-186

*§ 16.1-255. Intake; petition; investigation; summons.—A. All matters alleged to be within the jurisdiction of the court shall be commenced by the filing of a petition, except as provided in subsection F. herein and in § 16.1-254. Complaints, requests and the processing of petitions shall be the responsibility of the intake officer.*

*B. Investigation of complaints received by the intake officer shall be conducted as follows:*

*1. Complaints alleging abuse or neglect of a child shall be referred initially to the local department of public welfare or social services in accordance with the provisions of Chapter 12.1 (§ 63.1-248.1 et seq.) of Title 63.1 of the Code.*

*2. All other complaints shall be investigated by the intake officer.*

*C. When the court service unit of any court receives a complaint alleging facts which may be sufficient to invoke the jurisdiction of the court pursuant to § 16.1-237, the unit, through an intake officer, may proceed informally to make such adjustment as is practicable without the filing of a petition or may authorize a petiton to be filed by any complainant having sufficient knowledge of the matter to establish probable cause for the issuance of the petition. If any such complainant does not file a petition, the intake officer may file it. Provided, however, in cases where a child is alleged to be abused, neglected, in need of services or delinquent, if the intake officer believes that probable cause does not exist, or that the authorization of a petition will not be in the best interest of the family or child or that the matter may be effectively dealt with by some agency other than the court, he may refuse to authorize the filing of a petition.*

*D. If the intake officer refuses to authorize a petition, the complainant shall be notified in writing at that time of the complainant's right to obtain a review of the complaint by the Commonwealth's Attorney within ten days. The Commonwealth's Attorney, upon request of the complainant, shall review the facts presented by the complainant, and after consultation with the intake officer and the complainant shall, within fifteen days from the date of the request for the review, in writing, either authorize the filing of the petition or affirm the action of the intake officer, whichever action best serves the purposes of this law as set forth in § 16.1-223. The decision of the Commonwealth's Attorney as to whether to file a petition shall be final, and his decision shall be communicated to the intake officer.*



*E. The intake officer shall notify the Commonwealth's Attorney of the filing of any petition which alleges facts of an offense which would be a felony if committed by an adult.*

*F. The filing of a petition shall not be necessary:*

*1. in case of violation of the game and fish laws or a violation of the ordinance of any city regulating surfing. In such cases the court may proceed on a summons issued by the officer investigating the violation in the same manner as provided by law for adults.*

*2. in case of the issuance of a work permit pursuant to subsection H. of § 16.1-237. The court shall issue such permits on the forms prescribed in Chapter 5 (§ 40.1-78 et seq.) of Title 40.1 of the Code.*

*G. Failure to comply with the procedures set forth in this section shall not divest the juvenile court of the jurisdiction granted it in § 16.1-237.*

RESOURCE: § 16.1-164

Substantially revised

*§ 16.1-256. Statements made at intake.—Statements made by a child, while in custody, to the intake officer or probation officer during the intake process and prior to a hearing on the merits of the petition filed against the child, shall not be admissible at any stage of the proceedings.*

RESOURCE: New provision

*§ 16.1-257. Form and content of petition.—The petition shall contain the facts below indicated:*

*"Commonwealth of Virginia, In*

*re ..... a child*

*(name of child)*

*under eighteen years of age.*

*"In the Juvenile and Domestic Relations District Court of the county (or city) of .....".*

*1. Statement of name, age, date of birth, if known, and residence of the child.*

*2. Statement of names and residence of his parents, guardian, legal custodian or other person standing in loco parentis and spouse, if any.*

*3. Statement of names and residence of the nearest known relatives if no parent or guardian can be found.*

*4. Statement of the specific facts which allegedly bring the child within the purview of this law. If the petition alleges a delinquent act, it shall make reference to the applicable sections of the Code which designate the act a crime.*

*5. Statement as to whether the child is in custody, and if so, the place of detention or*

*shelter care, and the time the child was taken into custody, and the time the child was placed in detention or shelter care.*

*If any of the facts herein required to be stated are not known by the petitioner, the petition shall so state. The petition shall be verified and may be upon information.*

RESOURCE: § 16.1-165

*§ 16.1-258. Summons.—A. After a petition has been filed, the court shall direct the issuance of summonses, one directed to the child, if the child is twelve or more years of age, and another to the parents, guardian, legal custodian or other person standing in loco parentis, and such other persons as appear to the court to be proper or necessary parties to the proceedings. The summons shall require them to appear personally before the court at the time fixed to answer or testify as to the allegations of the petition. Where the custodian is summoned and such person is not the parent of the child in question, the parent shall also be served with a summons. If the child is married, the spouse shall be served with notice.*

*B. The summons shall advise the parties of their right to counsel as provided in § 16.1-261. A copy of the petition shall be attached to each summons.*

*C. The judge may endorse upon the summons an order directing the parents, guardian or other custodian having the custody or control of the child to bring the child to the hearing.*

*D. A party, other than the child, may waive service of summons by written stipulation or by voluntary appearance at the hearing.*

*E. No such summons or notification shall be required if the judge shall certify on the record that the identity of a parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.*

RESOURCE: §§ 16.1-166, 16.1-167, 16.1-172.

*§ 16.1-259. Service of summons, proof of service; penalty.—A. If a party to be served with a summons can be found within the State, the summons shall be served upon him personally at least three days before the hearing. If he is within the State and cannot be found, but his address is known or can with reasonable diligence be ascertained, the summons may be served upon him by mailing a copy thereof by certified mail return receipt requested at least five days before the hearing. If he is without the State but can be found or his address is known, or can with reasonable diligence be ascertained, service of summons may be made either by delivering a copy therof to him personally or by mailing a copy thereof to him by certified mail return receipt requested.*

*If after reasonable effort he cannot be found or his post office address cannot be ascertained, whether he is within or without the State, the court shall order service of the summons upon him by publication in accordance with the provisions of §§ 8-71 and 8-72 in which event the hearing shall not be less than five days after the date of last publication.*

*B. Service of summons may be made under the direction of the court by any law enforcement officer or other suitable person.*

*C. Proof of service may be made by the affidavit of the person other than an officer who delivers a copy of the summons to the person summoned, but if served by a State,*



*county or municipal officer his return shall be sufficient without oath.*

*D. The summons shall be considered a mandate of the court and willful failure to obey its requirements shall subject any person guilty thereof to liability for punishment as for contempt.*

RESOURCE: §§ 16.1-167, 16.1-168, 16.1-169, 16.1-170, 16.1-174.

*§ 16.1-260. Subpoena.—Upon application of a party, the clerk of the court shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents or other tangible objects at any hearing.*

RESOURCE: New provision

***Article 6.***

***Appointment of Counsel.***

*§ 16.1-261. Appointment of counsel.—A. Prior to the hearing by the court of any case involving a child who is alleged to be abused or neglected or who is the subject of an entrustment agreement or a petition terminating residual parental rights or is otherwise before the court pursuant to subsection A.4. of § 16.1-274, the court shall appoint a discreet and competent attorney at law as guardian ad litem to represent the child.*

*B. Prior to the adjudicatory or transfer hearing by the court of any case involving a child who is alleged to be in need of services or delinquent, such child and his or her parent, guardian, legal custodian or other person standing in loco parentis shall be informed by a judge, clerk or probation officer of the child's right to counsel and the provisions of § 16.1-262 and be given an opportunity to:*

*1. obtain and employ counsel of the child's own choice; or*

*2. if the court determines that the child is indigent within the contemplation of the law and his or her parent, guardian, legal custodian or other person standing in loco parentis does not retain an attorney for the child, a statement shall be executed substantially in the form provided by § 19.2-159 by such child, and the court shall appoint an attorney at law to represent him.*

*C. Prior to the hearing by the court of any case involving a parent, guardian or other adult charged with abuse or neglect of a child or a parent or guardian who could be subjected to the loss of residual parental rights and responsibilities, such parent, guardian or other adult shall be informed by a judge, clerk or probation officer of his right to counsel and be given an opportunity to:*

*1. obtain and employ counsel of the parent's, guardian's or other adult's own choice; or*

*2. if the court determines that the parent, guardian or other adult is indigent within the contemplation of the law, a statement shall be executed substantially in the form provided by § 19.2-159 by such parent, guardian or other adult and the court shall appoint an attorney at law to represent him.*

*D. In all other cases which in the discretion of the court require counsel or a*

*guardian ad litem to represent the interests of the child or children or the parent or guardian, a discreet and competent attorney at law may be appointed by the court.*

RESOURCE: § 16.1-173

*§ 16.1-262. Compensation of appointed counsel.—A. When the court appoints counsel to represent a child pursuant to § 16.1-261 and, after an investigation, finds that the parents are financially able to pay for the attorney and refuse to do so, the court shall assess costs against the parents for such legal services in an amount not to exceed seventy-five dollars. In all other cases, counsel appointed to represent a child shall be compensated for his services out of the appropriation for criminal charges in an amount fixed by the court, except that in no event shall the payment for such legal services exceed the sum of seventy-five dollars.*

*B. When the court appoints counsel to represent a parent, guardian or other adult pursuant to § 16.1-261, such counsel shall be compensated for his services out of the appropriation for criminal charges in an amount fixed by the court, except that in no event shall the payment for such services exceed the sum of seventy-five dollars.*

RESOURCE: § 16.1-173

*§ 16.1-263. Order of appointment.—The order of appointment of counsel pursuant to § 16.1-261 shall be filed with and become a part of the record of such proceeding. The attorney so appointed shall represent the child or parent, guardian or other adult at any such hearing and at all other stages of the proceeding unless relieved or replaced in the manner provided by law.*

RESOURCE: § 16.1-173

### *Article 7.*

### *Transfer and Waiver.*

*§ 16.1-264. Transfer to other courts; investigation and report; presentment to grand jury.—A. If a child fifteen years of age or older is charged with an offense which, if committed by an adult, could be punishable by confinement in the penitentiary, the court shall on motion of the Commonwealth's Attorney and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such child for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult, but any such transfer to the appropriate circuit court shall be subject to the following conditions:*

*1. The child was fifteen or more years of age at the time of the alleged commission of the offense.*

*2. Notice as prescribed in §§ 16.1-258 and 16.1-259 shall be given to the child and his or her parent, guardian, legal custodian or other person standing in loco parentis or attorney.*

*3. The court finds:*

*a. There is probable cause to believe that the child committed the delinquent act alleged;*



*b. The child is not in the opinion of the court amenable to treatment or rehabilitation as a juvenile through available facilities, considering the nature of the present offense or such factors as the nature of the child's prior delinquency record, the nature of past treatment efforts and the nature of the child's response to past treatment efforts;*

*c. The child is not committable to an institution for the mentally retarded or mentally ill; and*

*d. The interests of the community require that the child be placed under legal restraint or discipline.*

*B. Statements made by the child at the hearing under this section shall not be admissible against him over objection in the criminal proceedings following the transfer, except for purposes of impeachment.*

*C. Prior to the transfer hearing, a study and report to the court, in writing, relevant to the facts in subparagraph 3.b., subsection A. of this section, shall be made by the probation services or a qualified agency designated by the court. Counsel for the child shall have full access to the study and report required by this subsection and any other report or data concerning the child which are available to the court. The court shall not consider the report required by this subsection until a finding has been made concerning probable cause as set forth in subparagraph 3.a. hereof. If the court so orders, the study and written report may be enlarged to include the matters required by § 16.1-268, whereupon it may also serve as the report required by such section, but on the condition that it will not be submitted to the judge who will preside at any subsequent hearings except as provided for by law.*

*D. If the case is not transferred the judge who conducted the hearing shall not over objection of an interested party preside at the adjudicatory hearing on the petition, but rather it shall be presided over by another judge for that court.*

*E. If the court, after a hearing on whether the transfer should be made or whether jurisdiction should be retained, decides to retain the case, and the Commonwealth's Attorney deems it to be in the public interest, and the child is fifteen years of age or older and is charged with an offense which, if committed by an adult, would be punishable by death or confinement in the penitentiary for life or a period of more than twenty years, the Commonwealth's Attorney may notify the juvenile court, within three days after the juvenile court's final determination to retain the case, of his intention to seek a removal of the case to the proper circuit court having criminal jurisdiction and a copy of such notice shall be furnished at the same time to the counsel for such child. Within three days after receipt of such notice, the judge of the juvenile court shall forward to such circuit court all papers connected with the case, including the report required by this section, as well as a written order setting forth the reasons for the juvenile court's opinion that the case should be retained in that court. The circuit court shall, within ten days after receipt of the case from the juvenile court, and after examination of all such papers, reports and orders, enter an order either remanding the case to the juvenile court or advising the Commonwealth's Attorney that he may seek an indictment. If the grand jury returns a true bill upon such indictment the jurisdiction of the juvenile court as to such case shall terminate. The judge of the circuit court who reviewed the case after receipt from the juvenile court shall not over the objection of an interested party preside over the trial of such charge or charges.*

RESOURCE: § 16.1-176

*§ 16.1-265. Waiver of jurisdiction of juvenile court in certain cases.—At any time prior to commencement of the adjudicatory hearing, a child fifteen years of age or older charged with an offense which if committed by an adult could be punishable by*

*confinement in the penitentiary, with the written consent of his counsel, may elect in writing to waive the jurisdiction of the juvenile court and have his case transferred to the appropriate circuit court, in which event his case shall thereafter be dealt with in the same manner as if he had been transferred pursuant to § 16.1-264.*

RESOURCE: § 16.1-176.2

*§ 16.1-266. Subsequent offenses by juvenile.—The trial or treatment of a juvenile as an adult pursuant to the provisions of this chapter shall not preclude the juvenile court from taking jurisdiction of such juvenile for subsequent offenses committed by that juvenile.*

RESOURCE: New provision

*§ 16.1-267. Power of circuit court over juvenile offender.—A. In the hearing and disposition of felony cases properly before a circuit court having criminal jurisdiction of such offenses if committed by an adult, the court, after giving the juvenile the right to a trial by jury on the issue of guilt or innocence and upon a finding of guilty, may sentence or commit the juvenile offender in accordance with the criminal laws of this State or may in its discretion deal with the juvenile in the manner prescribed in this law for the hearing and disposition of cases in the juvenile court.*

*B. If the circuit court decides to deal with the juvenile in the same manner as a case in the juvenile court and places the child on probation, the child shall be supervised by a juvenile probation officer.*

RESOURCE: § 16.1-177

***Article 8.***

***Adjudication.***

*§ 16.1-268. Social history.—When the juvenile court or the circuit court as the case may be has adjudicated any case involving a child subject to the jurisdiction of the court hereunder, the court may before final disposition thereof require an investigation, which may include the physical, mental and social conditions and personality of the child and the facts and circumstances surrounding the violation of law.*

RESOURCE: § 16.1-164

*§ 16.1-269. Time for filing of reports; copies furnished to attorneys; amended reports.—Whenever any court directs an investigation pursuant to § 16.1-233 A. or § 16.1-268, the probation officer or other agency conducting such investigation shall file such report with the clerk of the court directing the investigation. The clerk shall make available a copy of such report to all attorneys representing parties in the matter before the court no later than seventy-two hours prior to the time set by the court for hearing the matter. If such probation officer or other agency discovers additional information or a change in circumstance after the filing of the report, an amended report shall be filed forthwith and a copy sent to each person who received a copy of the original report. Whenever such a report is not filed or an amended report is filed, the court shall grant such continuance of the proceedings as justice requires. All attorneys receiving such report or amended report shall return such to the clerk upon the conclusion of the hearing and shall not make copies of such report or amended report or any portion thereof.*



RESOURCE: § 16.1-208.1

*§ 16.1-270. Physical and mental examinations and treatment; nursing and medical care.—The juvenile court or the circuit court may cause any child within its jurisdiction under the provisions of this law to be examined and treated by a physician, psychiatrist or a clinical psychologist; and upon the written recommendation of the physician or psychiatrist the court shall have the power to send any such child to a State mental hospital for not more than thirty days for the purpose of obtaining a recommendation for the treatment of the child. Whenever the parent or other person responsible for the care and support of a child is determined by the court to be financially unable to pay the costs of such examination as ordered by the juvenile court or the circuit court, such costs may be paid according to standards, procedures and rates adopted by the State Board, from funds appropriated in the general appropriation act for the Department from criminal costs.*

*The juvenile court or the circuit court, with the concurrence of the child's attorney, may cause any child within its jurisdiction to be placed in the temporary custody of the Department of Corrections for a period of time not to exceed thirty days for diagnostic assessment services after the adjudicatory hearing and prior to final disposition of his or her case; provided, however, that the Department determines that the personnel, services and space are available in the appropriate correctional facility for the care, supervision and study of such child and that the child's case is appropriate for referral for diagnostic services.*

*Whenever a child concerning whom a petition has been filed appears to be in need of nursing, medical or surgical care, the juvenile court or the circuit court may order the parent or other person responsible for the care and support of the child to provide such care in a hospital or otherwise and to pay the expenses thereof. If the parent or other person is unable or fails to provide such care, the juvenile court or the circuit court may refer the matter to the authority designated in accordance with law for the determination of eligibility for such services in the county or city in which such child or his parents have residence or legal domicile.*

*In any such case, if a parent who is able to do so, fails or refuses to comply with the order, the juvenile court or the circuit court may proceed against him as for contempt or may proceed against him for nonsupport.*

RESOURCE: § 16.1-190

*§ 16.1-271. Fees and travel expenses of witnesses.—The judge may authorize the payment of the fees and mileage provided by law in § 19.2-278 of any witness or person summoned or otherwise required to appear at the hearing of any case coming within the jurisdiction of the court, which sum shall be paid by the State Treasurer out of funds appropriated in the general appropriations act for criminal costs.*

RESOURCE: § 16.1-171

*§ 16.1-272. Standards for entrustment.—Where a parent or other custodian seeks to be relieved of the care and custody of any child pursuant to subsection A.4. of § 16.1-237, or where a public or private agency seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the court shall grant the requested relief only if it finds that: (i) suitable alternative placements exist for such child, (ii) the child is in need of such alternative placement and (iii) a transfer of legal custody and placement outside the child's present home would not detrimentally affect the child's life, health or development.*

RESOURCE: New provision

*Article 9.*

*Disposition.*

*§ 16.1-273. Cooperation of certain agencies, officials, institutions and associations.—A. The judge may order any State, county and municipal officer or employee to render such information, assistance, services and cooperation as may be required to further the objects of this law and as shall be within that officer's or employee's legal authority.*

*B. The judge may order any governmental agency or other institution to render such information, assistance, services, and cooperation as may be required to further the objects of this law and to facilitate the care, treatment, supervision or custody of a child who is or shall be under its care and as shall be within that agency's or institution's legal authority.*

*C. The court is authorized to cooperate with and make use of the services of all public or private societies or organizations which seek to protect or aid children or families, in order that the court may be assisted in giving the children and families within its jurisdiction such care, protection and assistance as will best enhance their welfare.*

RESOURCE: § 16.1-156

*§ 16.1-274. Disposition.—A. If a child is found to be abused or neglected, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition to protect the welfare of the child:*

*1. enter an order pursuant to the provisions of § 16.1-273.*

*2. permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child, and his or her parent, guardian, legal custodian or other person standing in loco parentis.*

*3. after a finding that there is no less drastic alternative, transfer legal custody subject to the provisions of § 16.1-276 to any of the following:*

*a. a relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.*

*b. a child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child.*

*c. the local department of public welfare or social services.*

*4. transfer legal custody pursuant to subsection A.3. hereof and order the parent, guardian, legal custodian or other person standing in loco parentis to participate in such services and programs or to refrain from such conduct as the court may prescribe.*

*5. terminate the rights of such parent, guardian, legal custodian or other person standing in loco parentis pursuant to § 16.1-278.*

*B. Where a parent or other custodian seeks to be relieved of the care and custody of any child pursuant to subsection A.4. of § 16.1-237. or where a public or private agency seeks to gain approval of an entrustment agreement pursuant to § 63.1-56 or § 63.1-204, the juvenile court or the circuit court may, after compliance with § 16.1-272, make any of the orders of disposition permitted in a case involvng an abused or neglected child; provided, however, that no order of disposition shall be made over the objection of any party, which was not provided for or requested in the entrustment agreement or in the petition's prayer for relief.*



*C. If a child is found to be in need of services, the juvenile court or the circuit court, as the case may be, may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:*

*1. enter an order pursuant to the provisions of § 16.1-273.*

*2. permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such condition and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.*

*3. place the child on probation under such conditions and limitations as the court may prescribe.*

*4. in the case of any child, fourteen years of age or older, where the court finds that the school officials have made a diligent effort to meet the child's educational needs, and after study, the court further finds that the child is not able to benefit appreciably from further schooling, the court may:*

*a. excuse the child from further compliance with any legal requirement of compulsory school attendance, and*

*b. authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of eighteen.*

*5. transfer legal custody to any of the following:*

*a. a relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.*

*b. a child welfare agency, private organization or facility which is licensed or otherwise is authorized by law to receive and provide care for such child.*

*c. the local department of public welfare or social services.*

*D. Unless a child found to be abused, neglected or in need of services shall also be found to be delinquent and shall be older than ten years of age, he shall not be committed to the State Board of Corrections.*

*E. If a child is found to be delinquent, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:*

*1. enter an order pursuant to the provisions of § 16.1-273.*

*2. permit the child to remain with his or her parent, guardian, legal custodian or other person standing in loco parentis subject to such conditions and limitations as the court may order with respect to such child and his or her parent, guardian, legal custodian or other person standing in loco parentis.*

*3. place the child on probation under such conditions and limitations as the court may prescribe.*

4. impose a fine not to exceed five hundred dollars upon such child.

5. suspend the motor vehicle and operator's license of such child.

6. require the child to make restitution or reparation to the aggrieved party or parties for actual damages or loss caused by the offense for which the child was found to be delinquent.

7. transfer legal custody to any of the following:

a. a relative or other individual who, after study, is found by the court to be qualified to receive and care for the child.

b. a child welfare agency, private organization or facility which is licensed or otherwise authorized by law to receive and provide care for such child.

c. the local department of public welfare or social services.

8. commit the child to the State Board of Corrections; provided, however, no child ten years of age and under shall be committed to the State Board.

9. impose the penalty authorized by § 16.1-279.

F. In cases involving the custody, visitation or support of a child pursuant to subsection A.3. of § 16.1-237, the court may make any order of disposition to protect the welfare of the child and family as may be made by the circuit court.

G. In cases involving a child who is adjudged mentally defective or mentally disordered, disposition shall be in accordance with the provisions of Chapters 1 (§ 37.1-1 et seq.) and 2 (§ 37.1-63 et seq.) of Title 37.1 of the Code.

H. In cases involving judicial consent to the matters set out in subsections C. and D. of § 16.1-237, the juvenile court or the circuit court may make any appropriate order to protect the health and welfare of the child.

I. In cases involving charges of desertion, abandonment or failure to provide support by any person in violation of law, disposition shall be made in accordance with Chapter 5 ( § 20-61 et seq.) of Title 20 of the Code.

J. In cases involving a child who is not able to obtain a work permit under other provisions of law, the juvenile court or the circuit court may grant a special work permit on forms furnished by the Department of Labor and Industry, subject to such restrictions and conditions as it may deem appropriate and as may be set out in Chapter 5 (§ 40.1-79 et seq.) of Title 40.1 of the Code.

K. In cases involving 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 required by law to be provided for such persons, the juvenile court or the circuit court, as the case may be, may enter an order in accordance wih § 16.1-273.

L. In cases involving the violation of any law, regulation or ordinance for the education, protection or care of children or involving offenses committed by one spouse against another, the juvenile court or the circuit court may impose a penalty prescribed by applicable sections of the Code.



RESOURCE: §§ 16.1-178, 16.1-187.

Substantially revised

§ 16.1-275. Commitment of mentally defective juvenile.—When any juvenile court has found a child to be in need of services or delinquent pursuant to the provisions of this law and reasonably believes such child is mentally defective, such court may commit him or her to an appropriate State hospital for observation as to his or her mental condition, whereupon the proceedings shall be in accordance with the provisions of § 37.1-[illegible], notwithstanding the age restrictions stated therein.

RESOURCE: § 16.1-178.2

§ 16.1-276. Foster care plan.—A. In any case where legal custody of a child is hereafter given to a local department of public welfare or social services or a child welfare agency pursuant to subsections A. or B. of § 16.1-274 such department or agency shall prepare a foster care plan for such child, as described hereinafter. The representatives of such department or agency shall consult with the child's parents and any other person or persons standing in loco parentis at the time the department or agency obtained custody concerning the matters which should be included in such plan. The department or agency shall file such plan with the juvenile and domestic relations district court within sixty days following the order of disposition unless the court, for good cause shown, allows an extension of time, which shall not exceed an additional sixty days. For each child placed in foster care on or before June thirtieth, nineteen hundred seventy-six a foster care plan shall be filed with the court by July one, nineteen hundred seventy-seven.

B. Such foster care plan in Part A thereof shall describe (i) the programs, care, services and other support which will be offered to such child and his or her parents and other prior custodians, (ii) the participation and conduct which will be sought from the child's parents and other prior custodians. (iii) the visitation and other contacts which will be permitted between the child and his or her parents and other prior custodians, and (iv) the nature of the placement or placements which will be provided for such child. Such plan shall be designed to lead to the return of such child to his or her parents or other prior custodians within the shortest practicable time which shall be specified in the plan; provided, however, if the department or agency determines that it is not reasonably likely that the child can be returned to his or her prior family within a practicable time, consistent with the best interests of the child, in Part B of the plan such department or agency shall (i) include a full description of the reasons for this conclusion, (ii) determine the opportunities for placing the child in an adoptive home or permanent foster care placement and (iii) design the plan to lead to the child's successful placement in an adoptive home or permanent foster care placement within the shortest practicable time. The department or agency may include with such proposed plan a proper pleading seeking the termination of residual parental rights pursuant to § 16.1-278.

C. A copy of Parts A and B of the foster care plan shall be sent by the court to the attorney for the child, the child's parents or any other person standing in loco parentis at the time the department or agency obtained custody and such other persons as appear to the court to have a proper interest in the plan. A copy of Part A of the foster care plan shall be sent by the court to the foster parents. Any party receiving a copy of the plan may, for good cause shown, petition the court for a review of the plan.

D. The court in which the foster care plan is filed shall be notified immediately if the child is returned to his or her parents or other persons standing in loco parentis at the time the department or agency obtained custody.

RESOURCE: New provision

*§ 16.1-277. Foster care review.—A. This section shall apply to all children under the legal custody of a local department of public welfare or social services or a child welfare agency (i) who were the subjects of a foster care plan filed with the court pursuant to § 16.1-276 and (ii) who have not been returned to their prior family or placed in an adoptive home or permanent foster care placement within twelve months following the filing of a foster care plan.*

*B. The department or agency, or an authorized representative thereof, having legal custody of a child or children subject to this section shall file with the court the petition hereinafter described for each such child within twelve months after the filing of a foster care plan for such child.*

*Such petition shall:*

*1. be filed in the court in which the foster care plan was filed for such child; provided, however, that upon the order of such court, such petition may be filed in the court of the county or city in which the department or agency having legal custody has its principal office or where the child resides;*

*2. include a copy of the foster care plan previously filed for such child;*

*3. state, if such is reasonably obtainable, the current address of the child's parents and, if the child was in the custody of a person or persons standing in loco parentis at the time the department or agency obtained legal custody, of such person or persons;*

*4. describe the placement or placements provided for such child while in foster care and the services or programs offered to such child and his or her parents and, if applicable, the persons previously standing in loco parentis;*

*5. describe the nature and frequency of the contacts between the child and his or her parents and, if applicable, the persons previously standing in loco parentis;*

*6. set forth in detail the manner in which the foster care plan previously filed with the court was or was not complied with and the extent to which the goals thereof have been met;*

*7. set forth the disposition sought and the grounds therefor; provided, however, that if a continuation of foster care is recommended, a foster care plan for such period of continued foster care shall also be included.*

*C. Upon receipt of the petition the court shall schedule a hearing for review of the foster care plan and shall provide notice of the hearing and a copy of the petition to the following, each of whom shall be a party entitled to participate in the proceeding:*

*1. the child, if he or she be twelve years of age or older;*

*2. the attorney at law representing the child as guardian ad litem;*

*3. the child's parents and, if the child was in the custody of a person standing in loco parentis at the time the department obtained custody, such person or persons; provided, however, no such notification shall be required if the judge shall certify on the record that the identity of the parent or guardian is not reasonably ascertainable. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence before the court which would refute such an affidavit.*



*4. the foster parent or parents of such child;*

*5. the petitioning department or agency; and*

*6 such other persons as the court may, in its discretion, direct.*

*D. At the conclusion of the hearing, the court shall, upon the proof adduced and in accordance with the best interests of the child, enter any appropriate order of disposition consistent with the dispositional alternatives available to the court at the time of the original hearing.*

*E. The court shall possess continuing jurisdiction over cases reviewed under this section for so long as a child remains in temporary foster care or, when a child is returned to his or her prior family subject to conditions imposed by the court, for so long as such conditions are effective. The court may rehear the matter whenever it deems it necessary or desirable, or upon the petition of any party entitled to notice in proceedings under this section; provided, however, that the court shall rehear the matter once every twelve months for so long as the child has not been returned to his or her prior family or placed in an adoptive home or permanent foster care placement.*

RESOURCE: New provision

*§ 16.1-278. Termination of residual parental rights.—A. The residual parental rights of a parent or parents may be terminated by the court as hereinafter provided in a separate proceeding or in a proceeding for neglect or abuse if the petition or later pleading specifically requests such relief. The court may terminate the residual parental rights of one parent without affecting the rights of the other parent. The summons or, if residual parental rights are sought to be terminated in a neglect or abuse proceeding by a pleading subsequent to the petition, the notice of hearing shall be served upon the parent or parents and the other parties specified in § 16.1-258. Written notice of the hearing shall also be provided to the foster parents of the child if they have had physical custody of the child for more than twelve months informing them that they may appear at the hearing to give testimony and, within the discretion of the court, otherwise participate in the proceeding. The summons or notice of hearing shall clearly state the consequences of a termination of residual parental rights. Service shall be made pursuant to § 16.1-259.*

*B. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused may be terminated if the court finds, based upon competent evidence, that it is in the best interests of the child and that:*

*1. the neglect or abuse suffered by such child presents a serious and substantial threat to his or her life, health or development; and*

*2. it is not reasonably likely that the conditions which resulted in such neglect or abuse can be substantially corrected or eliminated so as to allow the child's safe return to his or her parent or parents within a reasonable period not in excess of one year.*

*Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subparagraph B.2. hereof:*

*a. the parent or parents are suffering from a mental or emotional illness or mental deficiency of such severity that there is no reasonable expectation that such parent will be able to undertake responsibility for the care needed by the child in accordance with his or her age and stage of development;*

*b. the parent or parents have habitually abused or are addicted to intoxicating*

liquors, narcotics or other dangerous drugs to the extent that proper parenting ability has been seriously impaired and the parent has not responded to or followed through with recommended and appropriate treatment which could have improved the capacity for adequate parental functioning;

c. the parent or parents have willfully refused to cooperate in the development of a foster care plan designed to lead to the child's return to the parent or parents; or

d. the parent or parents have not responded to or followed through with appropriate and reasonable rehabilitative efforts on the part of social, medical, mental health or other rehabilitative agencies designed to reduce, eliminate or prevent the neglect or abuse of the child as evidenced by the continuation of substantial or repeated acts of neglect or abuse after the provision of such services.

C. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused or placed in foster care as a result of an entrustment agreement entered into by the parent or parents or other voluntary relinquishment by the parent or parents may be terminated if the court finds, based upon competent evidence, that it is in the best interests of the child and that:

1. the parent or parents have, without good cause, failed to maintain contact with and to provide or substantially plan for the future of the child for a period of twelve months after the child's placement in foster care notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to communicate with the parent or parents and to strengthen the parent-child relationship; or

2. the parent or parents have been unwilling or unable within a reasonable period to remedy substantially the conditions which led to the child's foster care placement, notwithstanding the reasonable and appropriate efforts of social, medical, mental health or other rehabilitative agencies to such end.

Proof of any of the following shall constitute prima facie evidence of the conditions set forth in subparagraphs C.1. or 2. hereof:

a. the parent or parents have failed, without good cause, to communicate on a continuing or planned basis with the child for a period of twelve months; provided, however, that occasional or incidental greeting cards, notes or letters to the child shall not be deemed to be sufficient communication; or

b. the parent or parents have failed or have been unable to make reasonable progress towards the elimination of the conditions which led to the child's foster care placement in accordance with their obligations under and within the time limits or goals set forth in a foster care plan filed with the court or any other plan jointly designed by the parent or parents and a social, medical, mental health or other rehabilitative agency.

D. The residual parental rights of a parent or parents of a child found by the court to be neglected or abused upon the ground of abandonment may be terminated if the court finds, based upon competent evidence, that it is in the best interests of the child and that:

1. the child was abandoned under such circumstances that the identity of the parent or parents cannot be determined;

2. the child's parent or parents, guardian or relatives have not come forward to identify such child and claim a relationship to the child within six months following the issuance of an order by the court placing the child in foster care; and



3. diligent efforts have been made to locate the child's parent or parents without avail.

E. Notwithstanding any other provisions of this section, residual parental rights shall not be terminated if it is established that the child, if he or she be fourteen years of age or older or otherwise of an age of discretion as determined by the court, objects to such termination.

RESOURCE: New provision

§ 16.1-279. When child fifteen years of age or older may be sentenced as an adult.—If a child fifteen years of age or older is charged with an offense which if committed by an adult would be a misdemeanor or a felony and the court after receipt of a social history compiled pursuant to § 16.1-268 finds that (i) such child is not, in the opinion of the court, amenable to treatment or rehabilitation as a juvenile through available facilities, considering such factors as the nature of the present offense, the nature of the child's prior delinquency record, the nature of the past treatment efforts and the nature of the child's response to past treatment efforts and (ii) the interests of the community require that the child be placed under legal restraint or discipline, then the court may, in such cases, try such child and impose the penalties which are authorized to be imposed on adults for such violations, not to exceed twelve months in jail for a single offense or multiple offenses and subject to the provisions of § 16.1-248 B.

RESOURCE: § 16.1-177.1

§ 16.1-280. Detention of children to be held in jail.—Persons under the age of eighteen years who are sentenced to jail, or who, for any reason, are held in jail, or ordered or directed to be held in jail, may be held in any institution or facility other than a jail or detention home which is approved for such purpose by the Department.

RESOURCE: § 16.1-199

§ 16.1-281. Duration of commitments.—All commitments under this law shall be for an indeterminate period having regard to the welfare of the child and interests of the public, but no child committed hereunder shall be held or detained after such child shall have attained the age of twenty-one years; provided, however, any child who is committed under this law as an abused or neglected child or a child in need of services shall have the right upon request to be released from such commitment at the age of eighteen years.

RESOURCE: § 16.1-180

§ 16.1-282. Cost of maintenance; approval of placement; roster of adjudicated children.—A. When the court takes custody and places a child pursuant to the provisions of subsections C.5. or E.7. of § 16.1-274, such placement shall be made in accordance with the policies and procedures established by the State Board. The cost of such placements shall be paid by the Treasurer out of the general appropriation for criminal costs on warrants of the Comptroller issued upon vouchers approved and signed by the Director or his designee. The Board shall establish a per diem allowance to cover the cost of such placements; provided, however, that the cost of such care shall not be in excess of the average cost of maintaining a ward in the juvenile facilities operated by the Department of Corrections.

B. Pursuant to regulations established by the Board, the Director or his designee shall be responsible for the placement or approval of placement of all children placed pursuant to the provisions of subsections C.5. or E.7. of § 16.1-274 in facilities which can provide appropriate care and for the provision of proper supervision by the court or court service

unit making the placement.

C. The Director shall cause a current roster to be maintained concerning the whereabouts of all children placed by the Department.

RESOURCE: New provision

§ 16.1-283. Transfer of information upon commitment; information to be furnished by and to local school boards.—Whenever the court commits a child to the State Board of Corrections, or to any other institution or agency, it shall transmit with the order of commitment copies of the clinical reports, predisposition study and other information it has pertinent to the care and treatment of the child. The State Board shall not be responsible for any such committed child until it has received the court order and the information concerning the child. All local school boards shall be required to furnish the State Board promptly with any information from its files which the State Board deems to be necessary in the classification, evaluation, placement or treatment of any child committed to the State Board. The State Board shall likewise be required to furnish local school boards academic, vocational and related achievement information promptly from its files which the local school board may deem necessary when children are returned to the community from the State Board's care. The State Board and other institutions or agencies shall give to the court such information concerning the child as the court at any time requires. All such information shall be treated as confidential.

RESOURCE: § 16.1-181

§ 16.1-284. Protection of religious affiliations.—In placing a child under the guardianship or custody of an individual or of a private agency or institution, the court shall whenever practicable select a person, or an agency or institution governed by persons, of the same religious faith as that of the parents of the child, or in case of a difference in the religious faith of the parents and religious faith of the child, or, if the religious faith of the child is not ascertainable, then of the faith of either of the parents or of the child, unless the parent or parents of the child waive such selection.

RESOURCE: § 16.1-182

§ 16.1-285. Review of order of commitment.—The juvenile court or the circuit court, as the case may be, of its own motion may reopen any case and may modify or revoke its order. The juvenile court or the circuit court shall before modifying or revoking such order grant a hearing after notice in writing to the complainant, if any, and to the person or agency having custody of the child; provided, however, that this section shall not apply in the case of a child committed to the Department after sixty days from the date of the order of commitment.

RESOURCE: § 16.1-183

§ 16.1-286. Support of committed child; support from estate of child.—A. Whenever legal custody of a child is vested by the court in someone other than his parents, after due notice to the parents or other persons legally obligated to care for and support the child, and after an investigation and hearing, the court shall order and decree that the parent or other legally obligated person shall pay, in such a manner as the court may direct, a reasonable sum commensurate with the ability to pay, that will cover in whole or in part the support and treatment of the child after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.



B. If a child has an estate in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance so long as there may be funds for that purpose.

RESOURCE: §§ 16.1-184, 16.1-185.

### Article 10.

### Probation and Parole.

§ 16.1-287. Probation; protective supervision; revocation; disposition.—A. A child who violates an order of the juvenile court entered into pursuant to § 16.1-274 or who violates the conditions of his or her parole granted pursuant to § 16.1-289 may be proceeded against for a revocation of such order or parole status. A proceeding to revoke probation, protective supervision or parole shall be commenced by the filing of a petition. Except as otherwise provided, such petitions shall be screened, reviewed and prepared in the same manner and shall contain the same information as provided in §§ 16.1-255 and 16.1-257. The petition shall recite the date that the child was placed on probation or under protective supervision or on parole and shall state the time and manner in which notice of the terms of probation, protective supervision or parole were given. Proceedings to revoke probation, protective supervision or parole shall be governed by the procedures, safeguards, rights and duties applicable to the original proceedings.

B. If a child is found to have violated a prior order of the court or the terms of parole, the court may, in accordance with the provisions of § 16.1-274, upon a revocation hearing, modify or extend the terms of the order or parole or make any other disposition of the child.

RESOURCE: § 16.1-188

§ 16.1-288. Violation of court order by adult, agency or child.—Any adult or agency violating an order of the juvenile court entered into pursuant to § 16.1-274 may be proceeded against (i) by an order requiring the adult or agency to show cause why the order of the court entered into pursuant to § 16.1-274 has not been complied with, or (ii) for contempt of court pursuant to § 16.1-69.24, or (iii) by both.

Notwithstanding the contempt power of the court, the court shall be limited in the actions it may take with respect to a child violating the terms and conditions of an order to those which the court could have taken at the time of the court's original disposition pursuant to § 16.1-274.

RESOURCE: New provision

§ 16.1-289. Supervision of child on parole; placing child in halfway house.—When the Department returns a child who has been committed to its custody to a local community for supervision, the Director may return the child to either the juvenile and domestic relations district court service unit or to the local department of public welfare or social services of the community; provided, however, that whenever any child is committed to the Department by a circuit court, such child may, upon request of the judge of such court, be returned to such committing court by the Department. The agency to which the child is returned for parole shall accept responsibility for this service. The Director shall consult with the juvenile and domestic relations district court concerning the return of the child to the locality. When a child is so paroled for local supervision, he shall be deemed to be still in the custody of the Department.

*The local supervising agency shall furnish such child a written statement of the conditions of his parole and shall instruct him regarding the same.*

*In the event it is determined by the juvenile and domestic relations district court that a child may benefit from placement in the halfway house program operated by the Department, such child may be referred for care and treatment to a halfway house. Children so placed in a halfway house shall remain in parole status and cannot be transferred or otherwise placed in another institutional setting or institutional placement operated by the Department except as elsewhere provided by law for those children who have violated their parole status.*

RESOURCE: § 16.1-210

*§ 16.1-290. Placing child on parole in foster home or with institution; how cost paid.—When the child is returned to the court service unit or the local department of public welfare or social services for supervision, and, after a full investigation, the court or court service unit or local department of public welfare or social services is of the opinion that the child should not be placed in his or her home, and there are no funds available to board and maintain said child, the court service unit or the local department of public welfare or social services shall arrange with the Director of the Department of Corrections for the boarding of the child in a foster home or with any private institution, society or association. The cost of maintaining such child shall be paid monthly, according to the schedules prepared and adopted by the Department, by the State Treasurer, out of funds appropriated in the general appropriation act for criminal costs.*

RESOURCE: § 16.1-211

*§ 16.1-291. Transfer of supervision from one county or city to another, or to another state.—If any person on probation to or under the supervision of any juvenile probation officer or other officer of the court remove his residence or place of abode from the county or city in which he was so placed on probation or under supervision to another county or city in the State, the court in the city or county from which he removed his residence or place of abode may then arrange the transfer of the supervision to the city or county to which he moves his place of residence or abode, or such transfer may be ordered by the transferring court.*

*The Director of the Department of Corrections may make provision for the transfer of a juvenile placed on probation in this State to another state to be there placed on probation under the terms of Article 4 (§ 53-288 et seq.) of Chapter 11 of Title 53 of the Code.*

*The costs of returning juveniles on probation or parole to their places of residence, whether within or outside of this State, shall be paid in accordance with regulations established by the State Board from funds appropriated in the general appropriation act for criminal costs.*

RESOURCE: § 16.1-212

**Article 11.**

**Appeal.**

*§ 16.1-292. Jurisdiction of appeals; procedure.—From any final order or judgment of the juvenile court affecting the rights or interests of any person coming within its*



*jurisdiction, an appeal may be taken within ten days by any person aggrieved to the circuit court having jurisdiction of such city or county. Upon receipt of notice of such appeal the juvenile court shall forthwith transmit to the Commonwealth's Attorney a report incorporating the results of the investigation required in § 16.1-268, which shall be confidential in nature and made available only to the court and the attorney for the defendant after the guilt or innocence of the accused has been determined. After final determination of the case the report and all copies thereof, shall be forthwith returned to such juvenile court. Provided, however, that in either case the appeal may be withdrawn by the person taking same at any time before the appeal papers shall have been actually filed in the circuit court, and thereafter with the consent of the judge of that court; and provided further, that in any case the judge may grant a rehearing within thirty days upon good cause shown after due notice to interested parties.*

*Where an appeal is taken by a child on a finding that he or she is delinquent and on a disposition pursuant to § 16.1-274 E., trial by jury on the issue of guilt or innocence of the alleged deliquent act may be had on motion of the child, the Commonwealth's Attorney or the circuit court judge. If the jury in such a trial finds the child guilty, disposition shall be by the judge pursuant to the provisions of § 16.1-274 E. after taking into consideration the report of any investigation made pursuant to § 16.1-233 or § 16.1-268.*

*Where an appeal is taken by an adult on a finding of guilty of an offense within the jurisdiction of the juvenile and domestic relations district court, the appeal shall be dealt with in all respects as is an appeal from a general district court pursuant to §§ 16.1-132 through 16.1-137; provided, however, where an appeal is taken by any person on a charge of nonsupport, the procedure shall be as is provided for appeals in prosecutions under Chapter 5 of Title 20 of the Code.*

*In all other cases on appeal, proceedings in the circuit court shall conform to the equity practice where evidence is heard ore tenus; provided, however, that an issue out of chancery may be allowed, in the discretion of the judge, upon the motion of any party.*

*In all cases on appeal, the circuit court in the disposition of such cases shall have all the powers and authority granted by the chapter to the juvenile and domestic relations district court.*

*In the city of Richmond all appeals shall, as to matters arising within the city north of the James river, or arising upon the islands therein, be to the Circuit Court of the city of Richmond , Division I, and as to matters arising within the city south of the James river such appeals shall be to the Circuit Court of the city of Richmond, Division II.*

RESOURCE: § 16.1-214

*§ 16.1-293. Final judgment; copy filed with juvenile court; proceeding may be remanded to juvenile court.—Upon the rendition of final judgment upon an appeal from the juvenile and domestic relations district court, the circuit court shall cause a copy of its judgment to be filed with the juvenile court, which shall thereupon become the judgment of the juvenile court. In the event such circuit court does not dismiss the proceedings or discharge such child or adult, the circuit court may remand the child or adult to the jurisdiction of the juvenile court for its supervision and care, under the terms of its order or judgment, and thereafter such child or adult shall be and remain under the jurisdiction of the juvenile court in the same manner as if such court had rendered the judgment in the first instance.*

RESOURCE: § 16.1-215

*§ 16.1-294. Effect of petition for or pendency of appeal; appeal bond.—A. Except as*

*provided herein, a petition for or the pendency of an appeal or writ of error shall not suspend any judgment, order or decree of the juvenile court nor operate to discharge any child concerned or involved in the case from the custody of the court or other person, institution or agency to which the child has been committed unless so ordered by the judge of the juvenile court, the judge of a circuit court or directed in a writ of supersedeas by the Supreme Court or a judge thereof.*

*B. The judgment, order or decree of the juvenile court shall be suspended upon a petition for or the pendency of an appeal or writ of error:*

*1. in cases of delinquency in which the final order of the juvenile court is pursuant to § 16.1-274, subsections 4, 5, 6 or 9 of paragraph E.*

*2. in cases involving a child and any local ordinance.*

*3. in cases involving any person over the age of eighteen years.*

*Such suspension as is provided for in this subsection shall not apply to an order for support of a spouse, parent or child or to a preliminary protective order issued pursuant to § 16.1-249 unless so ordered by the judge of a circuit court or directed in a writ of supersedeas by the Supreme Court.*

*C. In all cases in which a child is committed to the State Board of Corrections pursuant to subsection E.8. of § 16.1-274. and such commitment is not suspended, the appeal of such cases shall be given priority on the docket of the circuit court.*

*D. In cases where the order of the juvenile court is suspended by order of the juvenile court or the circuit court, an appeal bond may be required in an amount to be determined by the court requiring the bond.*

RESOURCE: § 16.1-216

***Article 12.***

***Confidentiality and Expungement.***

*§ 16.1-295. Fingerprints and photographs of children.—A. Fingerprints and photographs of a child fifteen years of age or older who is charged with a delinquent act which would be a felony if committed by an adult may be taken and filed by law enforcement officers.*

*B. A child may be fingerprinted regardless of age or offense if he has been taken into custody for a violation of law, and a law enforcement officer has determined that there is probable cause to believe that latent fingerprints found during the investigation of an offense are those of such child.*

*C. The fingerprints and photographs authorized in subsections A. and B. shall be retained or disposed of as follows:*

*1. If a petition is not filed against a child whose fingerprints or photographs have been taken in connection with an alleged violation of law, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed.*

*2. If the juvenile court or the circuit court, pursuant to a transfer, waiver or appeal,*



*finds a child not guilty of a charge of delinquency, the fingerprint card, all copies of the fingerprints and all photographs shall be destroyed. Provided, however, all fingerprints and photographs of a child who is fourteen years of age and under and who is found guilty of a delinquent act shall also be destroyed.*

*3. If the court finds that a child fifteen years of age or older has committed a delinquent act, the fingerprints may be retained in a local file pursuant to § 16.1-296.*

*4. If a child fifteen years of age or older is certified to the circuit court pursuant to § 16.1-264 and is found guilty as an adult of the offense charged, copies of his fingerprints shall be forwarded to the Central Criminal Records Exchange.*

RESOURCE: New provision

*§ 16.1-296. Confidentiality of law enforcement records.— A. The court shall require all law enforcement agencies to take special precautions to ensure that law enforcement records and files concerning a child are protected against disclosure to any unauthorized person. The police departments of the cities of the State, and the police departments or sheriffs of the counties, as the case may be, shall keep separate records as to violations of law committed by juveniles. Unless a charge of delinquency is transferred for criminal prosecution pursuant to § 16.1-264 or the court otherwise orders disclosure in the interests of the child or of national security, such records and files with respect to such child shall not be open to public inspection nor their contents disclosed to the public.*

*B. Inspection of such records and files shall be permitted only by the following:*

*1. a court having the child currently before it in any proceeding;*

*2. the officers of public and nongovernmental institutions or agencies to which the child is currently committed, and those responsible for his supervision after release;*

*3. any other person, agency, or institution, by order of the court, having a legitimate interest in the case or in the work of the law enforcement agency;*

*4. law enforcement officers of other jurisdictions, by order of the court, when necessary for the discharge of their current official duties;*

*5. the probation and other professional staff of a court in which the child is subsequently convicted of a criminal offense for the purpose of a presentence report or other dispositional proceedings, or by officials of penal institutions and other penal facilities to which he is committed, or by a parole board in considering his parole or discharge or in exercising supervision over him; and*

*6. the child, parent, guardian or other custodian and counsel for the child.*

RESOURCE: § 16.1-163

*§ 16.1-297. Dockets and order books; hearings and records private; right to public hearing; presence of child in court.—Every juvenile court shall keep a separate docket, order book or file for the entries of its orders in cases arising under this law. The general public shall be excluded from all juvenile court hearings and only such persons admitted as the judge shall deem proper, except that in any hearing held for the purpose of adjudicating the alleged violation of any criminal law, the child or adult so charged shall have a right to be present and shall have the right to a public hearing unless expressly waived by such person. Whenever the sole purpose of a proceeding is to determine the custody of a child of tender years, the presence of such child in court may be waived by*

*the judge at any stage thereof.*

RESOURCE: § 16.1-162

*§ 16.1-298. Reports of court officials and employees privileged.—All information obtained in discharge of official duties by any official or employee of the court shall be privileged, and shall not be disclosed to anyone other than the judge unless and until otherwise ordered by the judge or by the judge of a circuit court; provided, however, that in any case when such information shall disclose that an offense has been committed which would be a felony or a class 1 or 2 misdemeanor if committed by an adult, it shall be the duty of the official or employee of the court obtaining such information to report the same promptly to the Commonwealth's Attorney or the police in the county, city or town where the offense occurred.*

RESOURCE: § 16.1-209

*§ 16.1-299. Disposition of papers.—All papers connected with any proceeding in a juvenile and domestic relations district court, except those in proceedings which are appealed or are sooner required to be returned to the clerk's office of a circuit court, shall be properly indexed, filed and preserved in such court.*

RESOURCE: § 16.1-192

No change

*§ 16.1-300. Confidentiality of court records.—A. Social, medical and psychiatric or psychological records, including reports or preliminary inquiries, predisposition studies and supervision records of neglected and abused children, children in need of services and delinquent children shall be filed separately from other files and records of the court and shall be open for inspection only to the following:*

*1. the judge, probation officers and professional staff assigned to serve the court;*

*2. representatives of a public or private agency or department providing supervision or having legal custody of the child;*

*3. the attorney for any party;*

*4. any other person, agency or institution, by order of the court, having a legitimate interest in the case or in the work of the court; provided, however, for the purposes of preparation of a presentence report upon a finding of guilty in a circuit court, adult probation officers shall have access to an accused's records in juvenile court.*

*B. All or any part of the records enumerated in subsection A., or information secured from such records, which is presented to the judge in court or otherwise in a proceeding under this law shall also be made available to the parties to the proceedings and representatives.*

*C. All other court records, including the docket, petitions, motions and other papers filed with a case, transcripts of testimony, findings, verdicts, orders and decrees shall be open to inspection only by those persons and agencies designated in subsection A. and B. of this section.*

*D. Notwithstanding any other provision of this law, the judge may make public the names of the juvenile and his parents and the nature of the offense, if he deems it to be in the public interest.*



RESOURCE: § 16.1-162

*§ 16.1-301. Expungement and sealing of court records.—A. Notwithstanding the provisions of § 16.1-299, the clerk of the juvenile and domestic relations district court shall, on January second of each year or on a date designated by the court, destroy its files, papers and records connected with any proceeding in such court, if such proceeding was with respect to a child, and such child has attained the age of nineteen years and five years have elapsed since the last proceeding was disposed of by the courts; provided, however, such records shall not be destroyed if the child was found not innocent of a delinquent act which would be a felony if committed by an adult. Provided, further, that records to proceedings commenced prior to July one, nineteen hundred and seventy-six shall be subject to the provisions of this section on and after July one, nineteen hundred and seventy-seven.*

*B. The remainder of the records held by the court of juveniles who have attained the age of nineteen and five years have elapsed since the last proceeding was disposed of by the courts shall be sealed. Such records shall be available for inspection only by a juvenile court, general district court or circuit court sentencing a person for conviction of any criminal offense and by the person on whom the record is kept.*

*C. A person who has been the subject of a delinquency petition and whose records fall within the provisions of subsection B. hereof may, after ten years since the last proceeding was disposed of by the juvenile court, file a motion requesting the destruction of all records pertaining to his case. Notice of such motion shall be given to the Commonwealth's Attorney. After a hearing on the matter, if the court grants the motion, copies of the order shall be sent to offices or agencies that are repositories of such records, and all such offices and agencies shall comply with the order.*

*D. A person found not innocent of a charge of delinquency shall be notified of his rights under subsections A. and C. of this section at the time of his or her dispositional hearing.*

*E. All records sealed pursuant to subsection B. hereof shall be destroyed twenty years from the date of the last proceeding in the juvenile court.*

*F. Upon destruction of the records of a proceeding as provided for in subsections A. and C., the proceedings in the case shall be treated as if they never occurred. All index references shall be deleted and the court and law enforcement officers and agencies shall reply and the person may reply to any inquiry that no record exists with respect to such person.*

*G. The court shall notify all pertinent agencies of the destruction of records provided for in subsections A. and C. Such agencies shall also destroy any records they have in connection with the same proceeding.*

RESOURCE: § 16.1-193

Substantially revised

*§ 16.1-302. Confidentiality of circuit court records.—In proceedings against a child in the circuit court in which the circuit court deals with the child in the same manner as a case in the juvenile court, the clerk of the court shall preserve all records connected with the proceedings in files separate from other files and records of the court. Such records shall be open for inspection only in accordance with the provisions of § 16.1-300. Provided, however, that entries in the chancery order book and the common law order book in such cases shall be treated as in all other cases in the circuit court.*

RESOURCE: New provision

*§ 16.1-303. Effect of adjudication on status of child.—A finding of guilty on a petition charging delinquency under the provisions of this law shall not operate to impose any of the disabilities ordinarily imposed by conviction for a crime, nor shall any such finding operate to disqualify the child for employment by any State or local governmental agency.*

RESOURCE: § 16.1-179

*§ 16.1-304. Penalty.—Except as provided in §§ 16.1-295, 16.1-296, 16.1-300 and 16.1-302, whoever discloses or makes use of or knowingly permits the use of information concerning a juvenile known to the police or before the court or in the custody of the State Board of Corrections, which information is directly or indirectly derived from the records or files of such agency or acquired in the course of official duties, shall be guilty of a class 3 misdemeanor.*

RESOURCE: New provision

***Article 13.***

***Facilities for Detention and Other Residential Care.***

*§ 16.1-305. Statewide plan for detention and other care facilities; supervision thereof.—It shall be the duty of the Department of Corrections to devise, develop and promulgate a statewide plan for the establishment and maintenance of suitable local and regional detention homes, group homes and other residential care facilities for children in need or services, delinquent or alleged delinquent youth, reasonably accessible to each court.*

*The Director shall have authority to appoint a State supervisor of community residential care and other necessary agents for the carrying out of such a plan, and the State supervisor shall cooperate with the proper local authorities in establishing and maintaining suitable detention homes, group homes and other residential care facilities in accordance with the provisions of this law.*

RESOURCE: § 16.1-198

*§ 16.1-306. Board to prescribe certain standards; how order of Board enforced.—A. The State Board is authorized and directed to prescribe the necessary positions required in the operation of detention homes, group homes or other residential care facilities for children in need of services, delinquent or alleged delinquent youth, to fix minimum salaries and grade increment scales for such positions; provided, however, that nothing herein shall prevent the payment of salaries in excess of state-approved ranges when such excess is paid from local funds. The State Board is also authorized and directed to prescribe minimum standards for construction and equipment of detention homes or other facilities and for feeding, clothing, medical attention, supervision and care of children detained therein. It may prohibit by its order the detention or housing of children in any place of residence which does not meet such minimum standards and designate some other place of detention or housing for children who would otherwise be held therein. Copies of each such order shall upon being issued be sent to the person in charge of the detention home or other facilities and to the judge of the circuit court of the county or of the city in which the facility is located.*

*B. Orders of the Board shall be enforced by circuit courts as is provided for orders*



*issued under § 53-134 and procedure shall be, mutatis mutandis, as is provided for the enforcement of orders of the Board under § 53-135.*

RESOURCE: § 16.1-199

*§ 16.1-307. Visitation and management of detention homes; other facilities; reports of Superintendent.—In the event that a detention home, group home or other residential care facility for children in need of services, delinquent or alleged delinquent youth is established by a city or county, or any combination thereof, it shall be subject to visitation, inspection and regulation by the State Board or its agents, and shall be furnished and carried on so far as possible as a family home under the management of a superintendent, appointed from a list of eligibles submitted by the State Board, and such other employees for such home as the State Board may deem necessary; provided, however, that the State Board shall have no authority to require a higher salary scale than that on which the local government is willing to base its share of the cost. It shall be the duty of the Superintendent to furnish the Department such reports and other statistical data relating to the operation of such detention homes, group homes or other residential care facilities for children in need of services, delinquent or alleged delinquent youth as may be required by the Director.*

RESOURCE: § 16.1-200

*§ 16.1-308. Construction, maintenance, etc., of detention homes or other facilities charge on counties and cities; reimbursement in part by State.—A. The responsibility for the construction, renovation, purchase, rental, maintenance and operation of a detention home, group home or other residential care facility for children in need of services, delinquent or alleged delinquent youth established by a city or county or any combination thereof and the necessary expenses incurred in maintaining and operating such detention homes, group homes or other residential care facilities shall be a charge upon the county or city, or any combination thereof, as the case may be, and the county boards of supervisors or the city councils or other governing bodies shall make provision therefor.*

*B. The Commonwealth shall reimburse the city or county or any combination thereof, as the case may be, for:*

*1. up to one-half the cost of construction, enlargement, renovation, purchase or rental of a detention home, group home or other residential care facility for children in need of services, delinquent or alleged delinquent youth hereafter constructed or enlarged by three or more counties or cities or any combination thereof for use by these localities or constructed or enlarged by the city or county or any combination thereof, upon a basis approved by the Board . Provided, however, that such homes or facilities which were built prior to the enactment of this law for use by three or more counties or cities or any combination thereof for a period of at least ten years shall continue to be eligible for reimbursement under this section. Provided further, that no such reimbursement for costs of construction shall be had unless the plans and specifications therefor have been submitted to the Governor and the construction has been approved by him. In the event that a county or city requests and receives financial assistance for the costs of construction of such detention home, group home or other residential care facility from the Division of Justice and Crime Prevention of the State of Virginia or from other public fund sources outside of the provisions of this law, the total financial assistance and reimbursement shall not exceed the total construction cost of the project exclusive of land and site improvement costs, and such funds shall not be considered State funds.*

*2. the entire reasonable cost, as determined by the State Board, for the necessary equipment, operating and transportation expenses required for the care of children held in detention homes awaiting hearing or disposition or held in group homes or other*

*residential care facilities. Provided, however, that equipment may be purchased only if approval is first obtained in writing from the Department, or if it is required for emergencies by the appropriate authority for safety or health. As a condition of reimbursement by the State for the entire reasonable cost of such equipment, the city or county or any combination thereof, as the case may be, shall be obligated to offer such equipment to the Department and obtain its written approval prior to the disposition of same for any reason except for the replacement of obsolete by new, comparable equipment. The Department may withhold its written approval in cases where such equipment may be used elsewhere in the State or local system, facilities or institutions for the detention or confinement of juveniles, and it shall be authorized to transfer such equipment wherever it may be so used.*

*3. two-thirds of the salaries of officers and employees engaged in the operation and maintenance of detention homes, group homes or other residential care facilities; provided, however, that any such home or facility which was built prior to the enactment of this law for use by three or more counties or cities or any combination thereof for a period of at least ten years and which ceases to be a regional home or facility at the end of the designated period shall receive a reimbursement of one-third of the salaries of its officers and employees; provided, further, that insofar as any funds from the Division of Justice and Crime Prevention of the State of Virginia or from other public fund resources in compensating one-third of the salaries of such personnel, such funds shall not be considered State funds.*

*C. Requests for reimbursements under this section shall be received from local jurisdictions on a monthly basis and shall be paid in monthly installments by the State Treasurer out of funds appropriated in the general appropriation act for criminal costs.*

*D. Notwithstanding the number of counties or cities, or combinations thereof, which shall use the facility, any county or city with a population of more than two hundred fifty thousand shall receive the reimbursements hereinabove provided for detention homes, and any county or city with a population of more than fifty thousand shall receive reimbursements hereinabove provided for group homes and other residential care facilities for children in need of services, delinquent or alleged delinquent youth.*

## RESOURCE: § 16.1-201

*§ 16.1-309. Cost of maintenance of children in other homes.—In case the local governing body shall arrange for the boarding of children temporarily detained in private homes or with any private institution, society or association, the cost of maintaining such children held in boarding homes or other institutions awaiting trial or disposition under the juvenile laws of this State shall be paid monthly, according to schedules prepared and adopted by the State Board, by the State Treasurer out of funds appropriated in the general appropriation act for criminal costs. In the event that the local governing body has arranged for the boarding of children temporarily detained in detention homes or private homes or with any private institution, society or association subsidized by another county or city for such purpose, such local governing body shall pay to the county or city operating such home a per diem allowance agreed to by the local governing bodies involved, subject to the approval of the State Board, for each child so detained. Such per diem allowance shall be applied by the county or city receiving same toward defraying such costs and expenses as the local governing body may have incurred in the setting up and in the operation of said homes.*

## RESOURCE: § 16.1-202

*§ 16.1-310. Joint or regional citizen detention commissions authorized.—The governing bodies of three or more counties, cities or towns (hereinafter referred to as "political subdivisions") may, by concurrent ordinances or resolutions, provide for the establishment of a joint or regional citizen juvenile detention home, group home or other residential care facility commission. Such commission shall be a public body corporate, with such powers as are set forth in this article.*



## RESOURCE: § 16.1-202.2

*§ 16.1-311. Number and terms of members; admission of additional local governing bodies.—A juvenile detention home, group home or other residential care facility commission shall consist of not less than six members, comprising not less than two members, but always an even number, from each participating political subdivision having a population of twenty-five thousand or more, and one member from each participating political subdivision having a population of less than twenty-five thousand. Such members shall be appointed, after consultation with the chief judge of the juvenile and domestic relations district court, by the city council or county board of supervisors, as the case may be. The chief judge or a judge designated by the chief judge from his district of the juvenile and domestic relations district court shall be a member of the commission.*

*One half of the members first appointed from a political subdivision entitled to two or more members shall serve for two years and one half for four years. After the first appointment, the term of office of all members shall be for four years; in case of an appointment of a single member, his term of office shall be for four years. When additional local governing bodies not otherwise sponsors of the juvenile detention, group home or other residential care facility commission desire to join and become sponsoring members of an existing juvenile detention, group home or other residential care facility commission, they may do so only upon the recommendation of the affected juvenile detention, group home or other residential care facility commission and with the approval of the sponsoring local governing bodies. The number of members which the applicant local governments will be entitled to appoint to such commission and other conditions relating to the expansion of sponsoring membership shall be determined by the agreement entered into between or among the sponsoring local governments and such applicant local governments.*

## RESOURCE: § 16.1-202.3

*§ 16.1-312. Appointment of members; juvenile judge a member; quorum; chairman; rules of procedure; compensation.—The members appointed by the governing bodies of the participating political subdivisions shall be selected from a list of eligible persons containing at least twice as many names as there are appointments to be made by the governing bodies, submitted by a committee of persons appointed by the respective governing bodies for the purpose of making such recommendations.*

*The appointive members of the commission shall constitute the commission, and the powers of the commission shall be vested in and exercised by the members in office from time to time. The chief judge or a judge designated by the chief judge from his district of the juvenile and domestic relations district court shall be a member of the commission.*

*A majority of the members in office shall constitute a quorum. The commission shall elect a chairman, and shall adopt rules and regulations for its own procedure and government. The governing bodies of the participating political subdivisions may by ordinance or resolution provide for the payment of compensation to the members of the commission and for the reimbursement of their actual expenses incurred in the performance of their duties.*

## RESOURCE: § 16.1-202.4

*§ 16.1-313. Powers of commission generally; supervision by Director of Department of Corrections.—Each commission created hereunder shall have all powers necessary or convenient for carrying out the general purposes of this article, including the following powers in addition to others herein granted, and subject to such supervision by the Director of the Department of Corrections as is provided in §§ 16.1-305 through 16.1-307 of this law:*

*A. In general. - To adopt a seal and alter the same at pleasure; to have perpetual succession; and to make and execute contracts and other instruments necessary or convenient to the exercise of its powers.*

*B. Officers, agents and employees. - To employ such technical experts, and such other officers, agents and employees as it may require, to fix their qualifications, duties and compensation and to remove such employees at pleasure.*

*C. Acquisition of property. - To acquire within the territorial limits of the political subdivisions for which it is formed, by purchase, lease, gift, or exercise of the right of eminent domain, subject to conditions hereinafter set forth, whatever lands, buildings and structures may be reasonably necessary for the purpose of establishing, constructing, enlarging, maintaining and operating one or more juvenile detention homes or facilities for the reception of juveniles committed thereto under the provisions of this chapter, provided, however, that such lands, buildings and structures may be acquired by purchase, lease or gift, although not within said territorial limits, if the location thereof be feasible and practicable with relation to the several political subdivisions for which such commission is formed; provided further, that such location be approved by resolution of the governing bodies of the participating political subdivisions and of the governing body of the political subdivision in which such lands, buildings and structures are to be located, and the consent in wri ing of the Director of the Department of Corrections is given thereto.*

*D. Construction. - To acquire, establish, construct, enlarge, improve, maintain, equip and operate any juvenile detention home or facility.*

*E. Rules and regulations for management. - To make and enforce rules and regulations for the management and conduct of its business and affairs and for the use, maintenance and operation of its facilities and properties.*

*F. Acceptance of donations. - To accept gifts and grants from the State or any political subdivision thereof, and from the United States and any of its agencies; and to accept donations of money, personal property or real estate, and take title thereto from any person, firm, corporation or association.*

*G. Rules and regulations as to juveniles under care. - To make rules, regulations and policies governing the care, guidance and training of juveniles in such detention facilities.*

RESOURCE: § 16.1-202.5

No change

*§ 16.1-314. Acquisition of property by commission.—The commission shall have the right to acquire by eminent domain any real property, including fixtures and improvements, which it may deem necessary to carry out the purposes of this article, after the adoption by it of a resolution declaring that the acquisition of the property described therein is in the public interest and necessary for public use; provided, however, that no such real property shall be so acquired or such facility established within the territorial limits of such political subdivision without the approval, after public hearing, of the governing body of such political subdivision.*



*Subject to the provisions of § 25-233, property already devoted to a public use may be acquired, provided, that no property belonging to any county or city or to any religious or charitable corporation may be acquired without its consent.*

RESOURCE: § 16.1-202.6

No change

*§ 16.1-315. Property of commission exempt from execution and judgment liens.—All property of the commission shall be exempt from levy and sale by virtue of an execution. No judgment against the commission shall be a charge or lien upon its property, real or personal.*

RESOURCE: § 16.1-202.7

No change

*§ 16.1-316. Appropriations by political subdivisions; issuance of bonds.—The political subdivisions for which the commission is created are authorized to make appropriations to the commission from available funds for the construction, improvement, maintenance and operation of any juvenile detention facility operated or proposed to be operated by the commission; and subject to other applicable provisions of law may issue general obligation bonds and appropriate the proceeds thereof for capital costs of such facility.*

RESOURCE: § 16.1-202.8

No change

*§ 16.1-317. Record of commission; reports.—The commission shall keep and preserve complete records of its administrative operations an d transactions, which records shall be open to inspection by the participating political subdivisio ns at all times. It shall make reports to such subdivisions annually, and at such other times as they may require.*

RESOURCE: § 16.1-202.9

No change

### *Article 14.*

### *Interstate Compact Relating to Juveniles.*

*§ 16.1-318. Governor to execute; form of compact.—The Governor of Virginia is hereby authorized and requested to execute, on behalf of the Commonwealth of Virginia, with any other state or states legally joining therein, a compact which shall be in form substantially as follows:*

*The contracting states solemnly agree:*

### *Article I—Findings and Purposes*

*That juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others. The cooperation of the states party to this compact is therefore necessary to provide for the welfare and protection of juveniles and of the public with respect to (1) cooperative supervision of delinquent juveniles on probation or parole; (2) the return, from one state to another, of delinquent*

*juveniles who have escaped or absconded; (3) the return, from one state to another, of nondelinquent juveniles who have run away from home; and (4) additional measures for the protection of juveniles and of the public, which any two or more of the party states may find desirable to undertake cooperatively. In carrying out the provisions of this compact the party states shall be guided by the noncriminal, reformative and protective policies which guide their laws concerning delinquent, neglected or dependent juveniles generally. It shall be the policy of the states party to this compact to cooperate and observe their respective responsibilities for the prompt return and acceptance of juveniles and delinquent juveniles who become subject to the provisions of this compact. The provisions of this compact shall be reasonably and liberally construed to accomplish the foregoing purposes.*

### *Article II—Existing Rights and Remedies*

*That all remedies and procedures provided by this compact be in addition to and not in substitution for other rights, remedies and procedures, and shall not be in derogation of parental rights and responsibilities.*

### *Article III—Definitions*

*That, for the purposes of this compact, "delinquent juvenile" means any juvenile who has been adjudged delinquent and who, at the time the provisions of this compact are invoked, is still subject to the jurisdiction of the court that has made such adjudication or to the jurisdiction or supervision of an agency or institution pursuant to an order of such court; "probation or parole" means any kind of conditional release of juveniles authorized under the laws of the states party hereto; "court" means any court having jurisdiction over delinquent, neglected or dependent children; "state" means any state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico; and "residence" or any variant thereof means a place at which a home or regular place of abode is maintained.*

### *Article IV—Return of Runaways*

*(a) That the parent, guardian, person or agency entitled to legal custody of a juvenile who has not been adjudged delinquent but who has run away without the consent of such parent, guardian, person or agency may petition the appropriate court in the demanding state for the issuance of a requisition for his return. The petition shall state the name and age of the juvenile, the name of the petitioner and the basis of entitlement to the juvenile's custody, the circumstances of his running away, his location if known at the time application is made, and such other facts as may tend to show that the juvenile who has run away is endangering his own welfare or the welfare of others and is not an emancipated minor. The petition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the document or documents on which the petitioner's entitlement to the juvenile's custody is based, such as birth certificates, letters of guardianship, or custody decrees. Such further affidavits and other documents as may be deemed proper may be submitted with such petition. The judge of the court to which this application is made may hold a hearing thereon to determine whether for the purposes of this compact the petitioner is entitled to the legal custody of the juvenile, whether or not it appears that the juvenile has in fact run away without consent, whether or not he is an emancipated minor, and whether or not it is in the best*



*interest of the juvenile to compel his return to the state. If the judge determines, either with or without a hearing, that the juvenile should be returned, he shall present to the appropriate court or to the executive authority of the state where the juvenile is alleged to be located a written requisition for the return of such juvenile. Such requisition shall set forth the name and age of the juvenile, the determination of the court that the juvenile has run away without the consent of a parent, guardian, person or agency entitled to his legal custody, and that it is in the best interest and for the protection of such juvenile that he be returned. In the event that a proceeding for the adjudication of the juvenile as a delinquent, neglected or dependent juvenile is pending in the court at the time when such juvenile runs away, the court may issue a requisition for the return of such juvenile upon its own motion, regardless of the consent of the parents, guardian, person or agency entitled to legal custody, reciting therein the nature and circumstances of the pending proceeding. The requisition shall in every case be executed in duplicate and shall be signed by the judge. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of such court. Upon the receipt of a requisition demanding the return of a juvenile who has run away, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No juvenile detained upon such order shall be delivered over to the officer whom the court demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of a court in the state, who shall inform him of the demand made for his return, and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such juvenile over to the officer whom the court demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purposes of testing the legality of the proceeding.*

*Upon reasonable information that a person is a juvenile who has run away from another state party to this compact without the consent of a parent, guardian, person or agency entitled to his legal custody, such juvenile may be taken into custody without a requisition and brought forthwith before a judge of the appropriate court who may appoint counsel or guardian ad litem for such juvenile and who shall determine after a hearing whether sufficient cause exists to hold the person, subject to the order of the court, for his own protection and welfare, for such a time not exceeding 90 days as will enable his return to another state party to this compact pursuant to a requisition for his return from a court of that state. If, at the time when a state seeks the return of a juvenile who has run away, there is pending in the state wherein he is found any criminal charge, or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the juvenile being returned, shall be permitted to transport such juvenile through any and all the states party to this compact, without interference. Upon his return to the state from which he ran away, the juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.*

*(b) That the state to which a juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.*

*(c) That "juvenile" as used in this Article means any person who is a minor under the law of the state of residence of the parent, guardian, person or agency entitled to the legal custody of such minor.*

### Article V—Return of Escapees and Absconders

(a) That the appropriate person or authority from whose probation or parole supervision a delinquent juvenile has absconded or from whose institutional custody he has escaped shall present to the appropriate court or to the executive authority of the state where the delinquent juvenile is alleged to be located a written requisition for the return of such delinquent juvenile. Such requisition shall state the name and age of the delinquent juvenile, the particulars of his adjudication as a delinquent juvenile, the circumstances of the breach of the terms of his probation or parole or of his escape from an institution or agency vested with his legal custody or supervision, and the location of such delinquent juvenile, if known, at the time the requisition is made. The requisition shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the judgment, formal adjudication, or order of commitment which subjects such delinquent juvenile to probation or parole or to the legal custody of the institution or agency concerned. Such further affidavits and other documents as may be deemed proper may be submitted with such requisition. One copy of the requisition shall be filed with the compact administrator of the demanding state, there to remain on file subject to the provisions of law governing records of the appropriate court. Upon the receipt of a requisition demanding the return of a delinquent juvenile who has absconded or escaped, the court or the executive authority to whom the requisition is addressed shall issue an order to any peace officer or other appropriate person directing him to take into custody and detain such delinquent juvenile. Such detention order must substantially recite the facts necessary to the validity of its issuance hereunder. No delinquent juvenile detained upon such order shall be delivered over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him, unless he shall first be taken forthwith before a judge of an appropriate court in the state, who shall inform him of the demand made for his return and who may appoint counsel or guardian ad litem for him. If the judge of such court shall find that the requisition is in order, he shall deliver such delinquent juvenile over to the officer whom the appropriate person or authority demanding him shall have appointed to receive him. The judge, however, may fix a reasonable time to be allowed for the purpose of testing the legality of the proceeding.

Upon reasonable information that a person is a delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, such person may be taken into custody in any other state party to this compact without a requisition. But in such event, he must be taken forthwith before a judge of the appropriate court, who may appoint counsel or guardian ad litem for such person and who shall determine, after a hearing, whether sufficient cause exists to hold the person subject to the order of the court for such a time, not exceeding 90 days, as will enable his detention under a detention order issued on a requisition pursuant to this Article. If, at the time when a state seeks the return of a delinquent juvenile who has either absconded while on probation or parole or escaped from an institution or agency vested with his legal custody or supervision, there is pending in the state wherein he is detained any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for an act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of such state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of any state party to this compact, upon the establishment of their authority and the identity of the delinquent juvenile being returned, shall be permitted to transport such delinquent juvenile through any and all states party to this compact, without interference. Upon his return to the state from which he escaped or absconded, the delinquent juvenile shall be subject to such further proceedings as may be appropriate under the laws of that state.



(b) That the state to which a delinquent juvenile is returned under this Article shall be responsible for payment of the transportation costs of such return.

### Article VI—Voluntary Return Procedure

That any delinquent juvenile who has absconded while on probation or parole, or escaped from an institution or agency vested with his legal custody or supervision in any state party to this compact, and any juvenile who has run away from any state party to this compact, who is taken into custody without a requisition in another state party to this compact under the provisions of Article IV (a) or of Article V (a), may consent to his immediate return to the state from which he absconded, escaped or ran away. Such consent shall be given by the juvenile or delinquent juvenile and his counsel or guardian ad litem if any, by executing or subscribing a writing, in the presence of a judge of the appropriate court, which states that the juvenile or delinquent juvenile and his counsel or guardian ad litem, if any, consent to his return of the demanding state. Before such consent shall be executed or subscribed, however, the judge, in the presence of counsel or guardian ad litem, if any, shall inform the juvenile or delinquent juvenile of his rights under this compact. When the consent has been duly executed, it shall be forwarded to and filed with the compact administrator of the state in which the court is located and the judge shall direct the officer having the juvenile or delinquent juvenile in custody to deliver him to the duly accredited officer or officers of the state demanding his return, and shall cause to be delivered to such officer or officers a copy of the consent. The court may, however, upon the request of the state to which the juvenile or delinquent juvenile is being returned order him to return unaccompanied to such state and shall provide him with a copy of such court order; in such event a copy of the consent shall be forwarded to the compact administrator of the state to which said juvenile or delinquent juvenile is ordered to return.

### Article VII—Cooperative Supervision of Probationers and Parolees

(a) That the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state") may permit any delinquent juvenile within such state, placed on probation or parole, to reside in any other state party to this compact (herein called "receiving state") while on probation or parole, and the receiving state shall accept such delinquent juvenile, if the parent, guardian or person entitled to the legal custody of such delinquent juvenile is residing or undertakes to reside within the receiving state. Before granting such permission, opportunity shall be given to the receiving state to make such investigations as it deems necessary. The authorities of the sending state shall send to the authorities of the receiving state copies of pertinent court orders, social case studies and all other available information which may be of value to and assist the receiving state in supervising a probationer or parolee under this compact. A receiving state, in its discretion, may agree to accept supervision of a probationer or parolee in cases where the parent, guardian or person entitled to the legal custody of the delinquent juvenile is not a resident of the receiving state, and if so accepted the sending state may transfer supervision accordingly.

(b) That each receiving state will assume the duties of visitation and of supervision over any such delinquent juvenile and in the exercise of those duties will be governed by the same standards of visitation and supervision that prevail for its own delinquent juveniles released on probation or parole.

(c) That, after consultation between the appropriate authorities of the sending state and of the receiving state as to the desirability and necessity of returning such a delinquent juvenile, the duly accredited officers of a sending state may enter a receiving state and there apprehend and retake any such delinquent juvenile on probation or parole. For that purpose, no formalities will be required, other than establishing the authority of the officer and the identity of the delinquent juvenile to be retaken and returned. The decision of the sending state to retake a delinquent juvenile on probation or parole shall be conclusive upon and not reviewable within the receiving state, but if, at the time the sending state seeks to retake a delinquent juvenile on probation or parole, there is pending against him within the receiving state any criminal charge or any proceeding to have him adjudicated a delinquent juvenile for any act committed in such state, or if he is suspected of having committed within such state a criminal offense or an act of juvenile delinquency, he shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment, detention or supervision for such offense or juvenile delinquency. The duly accredited officers of the sending state shall be permitted to transport delinquent juveniles being so returned through any and all states party to this compact, without interference.

(d) That the sending state shall be responsible under this Article for paying the costs of transporting any delinquent juvenile to the receiving state or of returning any delinquent juvenile to the sending state.

### Article VIII—Responsibility for Costs

(a) That the provisions of Articles IV (b), V (b) and VII (d) of this compact shall not be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.

(b) That nothing in this compact shall be construed to prevent any party state or subdivision thereof from asserting any right against any person, agency or other entity in regard to costs for which such party state or subdivision thereof may be responsible pursuant to Articles IV (b), V (b) or VII (d) of this compact.

### Article IX—Detention Practices

That, to every extent possible, it shall be the policy of states party to this compact that no juvenile or delinquent juvenile shall be placed or detained in any prison, jail or lockup nor be detained or transported in association with criminal, vicious or dissolute persons.

### Article X—Supplementary Agreements

That the duly constituted administrative authorities of a state party to this compact may enter into supplementary agreements with any other state or states party hereto for the cooperative care, treatment and rehabilitation of delinquent juveniles whenever they shall find that such agreements will improve the facilities or programs available for such care, treatment and rehabilitation. Such care, treatment and rehabilitation may be provided in an institution located within any state entering into such supplementary agreement. Such supplementary agreements shall (1) provide the rates to be paid for the care,



treatment and custody of such delinquent juveniles, taking into consideration the character of facilities, services and subsistence furnished; (2) provide that the delinquent juvenile shall be given a court hearing prior to his being sent to anoter state for care, treatment and custody; (3) provide that the state receiving such a delinquent juvenile in one of its institutions shall act solely as agent for the state sending such delinquent juvenile; (4) provide that the sending state shall at all times retain jurisdiction over delinquent juveniles sent to an institution in another state; (5) provide for reasonble inspection of such institutions by the sending state; (6) provide that the consent of the parent, guardian, person or agency entitled to the legal custody of said delinquent juvenile shall be secured prior to his being sent to another state; and (7) make provision for such other matters and details as shall be necessary to protect the rights and equities of such delinquent juveniles and of the cooperating states.

### Article XI—Acceptance of Federal and Other Aid

That any state party to this compact may accept any and all donations, gifts and grants of money, equipment and services from the federal or any local government, or any agency thereof and from any person, firm or corporation, for any of the purposes and functions of this compact, and may receive and utilize the same subject to the terms, conditions and regulations governing such donations, gifts and grants.

### Article XII—Compact Administrators

That the governor of each state party to this compact shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

### Article XIII—Execution of Compact

That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

### Article XIV—Renunciation

That this compact shall continue in force and remain binding upon each executing state until renounced by it. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice in writing of its intention to withdraw from the compact to the other states party hereto. The duties and obligations of a renouncing state under Article VII hereof shall continue as to parolees and probationers residing therein at the time of withdrawal until retaken or finally discharged. Supplementary agreements entered into under Article X hereof shall be subject to renunciation as provided by such supplementary agreements, and shall not be subject to the six months' renunciation notice of the present Article.

### Article XV—Severability

*That the provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstances is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.*

RESOURCE: § 16.1-213.1

No change

*§ 16.1-319. Legislative findings and policy.—It is hereby found and declared: (i) that juveniles who are not under proper supervision and control, or who have absconded, escaped or run away, are likely to endanger their own health, morals and welfare, and the health, morals and welfare of others; (ii) that the cooperation of this State with other states is necessary to provide for the welfare and protection of juveniles and of the people of this State.*

*It shall therefore be the policy of this State, in adopting the Interstate Compact on Juveniles, to cooperate fully with other states: (i) in returning juveniles to such other states whenever their return is sought; and (ii) in accepting the return of juveniles whenever a juvenile residing in this State is found or apprehended in another state and in taking all measures to initiate proceedings for the return of such juveniles.*

RESOURCE: § 16.1-213.2

No change

*§ 16.1-320. Compact administrator.—Pursuant to the compact set forth in § 16.1-318, the Governor is hereby authorized and empowered to designate an officer who shall be the compact administrator and who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms of the compact. Said compact administrator shall serve subject to the pleasure of the Governor. The compact administrator is hereby authorized, empowered and directed to cooperate with all departments, agencies and officers of and in the government of this State and its subdivisions in facilitating the proper administration of the compact or of any supplementary agreement or agreements entered into by this State thereunder.*

RESOURCE: § 16.1-213.3

No change

*§ 16.1-321. Supplementary agreements.—The compact administrator is hereby authorized and empowered to enter into supplementary agreements with appropriate officials of other states pursuant to the compact. In the event that such supplementary agreement shall require or contemplate the use of any institution or facility of this State or require or contemplate the provision of any service by this State, said supplementary agreement shall have no force or effect until approved by the head of the department or agency under whose jurisdiction said institution or facility is operated or whose department or agency will be charged with the rendering of such service.*

RESOURCE: § 16.1-213.6

No change

*§ 16.1-322. Discharging financial obligations imposed by compact or agreement.—The compact administrator, subject to the approval of the Director of the Budget, may make or arrange for any payments necessary to discharge any financial obligation imposed upon this State by the compact or by any supplementary agreement entered into thereunder.*



RESOURCE: § 16.1-213.5

No change

*§ 16.1-323. Jurisdiction.—The juvenile and domestic relations district courts of the Commonwealth shall have exclusive jurisdiction of juveniles within the operation of the compact.*

RESOURCE: § 16.1-213.6

No change

*§ 16.1-324. Additional procedure for returning runaways not precluded.—In addition to any procedure provided in Articles IV and VI of the compact for the return of any runaway juvenile, the particular states, the juvenile or his parents, the courts, or other legal custodian involved may agree upon and adopt any other plan or procedure legally authorized under the laws of this State and the other respective party states for the return of any such runaway juvenile.*

RESOURCE: § 16.1-213.7

No change

*§ 53-327.1. Disposition of property left by ward.—If any child, having been the ward and in the custody of the State Board of Corrections by virtue of § 16.1-274, upon being released or having escaped therefrom leaves any article or articles of personal property, including bonds, money and any intangible assets, in the custody of the Department, the Director may, in his discretion, after the lapse of three years from the date of such release or escape, if no claim therefor has been made by the owner, sell such personal property, either at public or private sale. The proceeds of such sale shall be paid into the State treasury and credited to the Literary Fund.*

RESOURCE: § 16.1-178.1

*§ 53-329.1. Observation of mentally defective children.—After commitment of any juvenile to the State Board of Corrections, if the Department of Corrections finds, as a result of psychiatric examinations and case study, that such juvenile is mentally defective, it may transfer such juvenile to an appropriate State hospital for observation as to his or her mental condition, whereupon the proceedings shall be in accordance with the provisions of § 37.1-67.1.*

RESOURCE: § 16.1-178.2

§ 63.1-56. Accepting children for placing in homes or institutions; care and control.—A local board shall have the right to accept for placement in suitable family homes or institutions, subject to the supervision of the Commissioner and in accordance with rules prescribed by the State Board, such persons under eighteen years of age as may be entrusted to it by the parent, parents or guardian, or committed by any court of competent jurisdiction. Such local board shall, in accordance with the rules prescribed by the State Board and in accordance with the parental agreement or other order by which such person is entrusted or committed to its care, have custody and control of the person so entrusted or committed to it until he is lawfully discharged, has been adopted or has attained his majority; and such local board

shall have authority to place for adoption, and to consent to the adoption of, any child properly committed or entrusted to its care when the order of commitment or entrustment agreement between the parent or parents and the agency provides for the permanent separation of such child from his parent or parents. Such local board shall also have the right to accept temporary custody of any person under eighteen years of age taken into custody ~~by law enforcement officers~~ pursuant to § ~~16.1-194(3)~~ *16.1-242 B.* where such person has been abandoned, abused or neglected.

*Whenever a local board accepts custody of a child pursuant to an entrustment agreement entered into under the authority of this section, such local board shall petition the juvenile and domestic relations district court of the city or county for approval of such agreement within a reasonable time, not to exceed thirty days, after its execution; provided, however, that such petition is not necessary when the agreement stipulates in writing that the entrustment shall be for less than ninety days and the child is returned to his or her home within that period.*

Prior to placing any such child in any foster home, the local board shall enter into a written agreement with the foster parents setting forth therein the conditions under which the child is so placed. No child shall be placed in a foster home outside this State by a local board without first complying with the appropriate provisions of § 63.1-207 or Chapter 10.1 of this title. The placement of a child in a foster home, whether within or without the State, shall not be for the purpose of adoption unless the placement agreement between the foster parents and the local board specifically so stipulates.

A parent who has not reached the age of twenty-one shall have legal capacity to execute an entrustment agreement including an agreement which provides for the permanent separation of the child from the parent and shall be as fully bound thereby as if the parent had attained the age of twenty-one years.

§ 63.1-195. Definitions.—As used in this chapter:

"Person" means any natural person, or any association, partnership or corporation;

"Child" means any natural person under eighteen years of age;

*"Foster care" means the provision of substitute care and supervision, for a child committed or entrusted to a local board of public welfare or child welfare agency or for whom the board or child welfare agency has accepted supervision, in a temporary living situation until the child can return to his or her family or be placed in a permanent foster care placement or in an adoptive home.*

"Foster home" means the place of residence of any natural person in which any child, other than a child by birth or adoption of such person, resides as a member of the household;

"Child placing agency" means any person, other than the parent or guardian of the child, who places, or obtains the placement of, or who negotiates or acts as intermediary for the placement of, any child in a foster home, or adoptive home;



"Child caring institution" means any institution, other than an institution operated by the State, a county or city, and maintained for the purpose of receiving children for full-time care, maintenance, protection and guidance separated from their parents or guardians, except:

(1) [Repealed.]

(2) A bona fide educational institution whose pupils, in the ordinary course of events, return annually to the homes of their parents or guardians for not less than two months of summer vacation;

(3) An establishment required to be licensed as a summer camp by §§ 35-43 to 35-53; and

(4) A bona fide hospital legally maintained, as such.

"Group home" means a child-caring institution operated by any person at any place other than in an individual's family home or residence, which does not care for more than twelve children;

"Independent foster home" means a private family home in which any child, other than a child by birth or adoption of such person, resides as a member of the household and has been placed therein independently of a child placing agency except (1) a home in which are received only children related by birth or adoption of the person who maintains such home and legitimate children of personal friends of such person and (2) a home in which are received a child or children committed under the provisions of ~~§ 16.1-178(2) or (4 1/2)~~ *§ 16.1-274, subsections A.3., C.5. or E.7.*;

*"Permanent foster care placement" means the place of residence in which a child resides and in which he or she has been placed pursuant to the provisions of §§ 63.1-56 and 63.1-206.1 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he or she reaches the age of majority. A permanent foster care placement may be a place of residence of any natural person or persons, a group home, an institution or any one placement deemed appropriate to meet a child's needs on a long-term basis.*

"Child care center" means any facility operated for the purpose of providing care, protection and guidance to a group of children separated from their parents or guardian during a part of the day only except (1) a facility required to be licensed as a summer camp under §§ 35-43 through 35-53; (2) a public school or a private school unless the Commissioner determines that such private school is operating a child care center outside the scope of regular classes; (3) a school operated primarily for the educational instruction of children from three to five years of age at which children three or four years of age do not attend in excess of four hours per day and children five years of age do not attend in excess of six and one-half hours per day; (4) a facility which provides child care on an hourly basis which is contracted for by a parent occasionally only; (5) a facility operated by a hospital on the hospital's premises, which provides care to the children of the hospital's employees, while such employees are engaged in performing work for the hospital; and (6)

a Sunday School conducted by a religious institution or a facility operated by a religious organization where children are cared for during short periods of time while persons responsible for such children are attending religious services.

"Child welfare agency" means a child placing agency, child caring institution, independent foster home, child care center or family day care home;

"Family day care home" means any private family home in which more than three children are received for care, protection and guidance during only a part of the twenty-four hour day, except children who are related by blood or marriage to the person who maintains the home; provided, however, that in case of a complaint in such a home where less than four children reside, the Commissioner may cause an investigation to be made as provided in § 63.1-198 and may require such home to comply with the provisions of this chapter applicable to family day care homes if he finds that such home is not conducive to the welfare of the children received therein.

§ 63.1-204. Acceptance and control over children; placing children for adoption.—A licensed child welfare agency shall have the right to accept, for any purpose not contrary to the limitations contained in its license, such children as may be entrusted or committed to it by the parents, guardians, relatives or other persons having legal custody thereof, or committed by any court of competent jurisdiction. The agency shall, within the terms of its license and the agreement or order by which such child is entrusted or committed to its care, have custody and control of every such child so entrusted or committed and accepted, until he is lawfully discharged, has been adopted, or has attained his majority.

*Whenever a licensed child welfare agency accepts custody of a child pursuant to an entrustment agreement entered into under the authority of this section, such child welfare agency shall petition the juvenile and domestic relations district court of the city or county for approval of such agreement within a reasonable time, not to exceed thirty days, after its execution; provided, however, that such petition is not necessary when the agreement stipulates in writing that the entrustment shall be for less than ninety days and the child is returned to his or her home within that period.*

A licensed child-placing agency, or local board of public welfare may place for adoption, and is empowered to consent to the adoption of, any child who is properly committed or entrusted to its care when the order of commitment or the entrustment agreement between the parent or parents and the agency or board provides for the permanent separation of such child from his parent or parents. Notwithstanding the terms of §§ 63.1-233 and 63.1-237, a valid entrustment agreement for the permanent separation of such child shall not be revocable by either of the natural parents after fifteen days from the date of execution of the agreement, or if the child is not at least twenty-five days old at the end of the fifteen-day period, then after the child reaches the age of twenty-five days, and such agreement shall divest the natural parents of all legal rights and obligations with respect to the child, and the child shall be free from all legal obligations of obedience and maintenance with respect to



them, provided that such rights and obligations may be restored to the natural parent or parents and the child by court order prior to entry of final order of adoption upon proof of fraud or duress; and further provided that either parent or both parents, if married, may revoke such agreement and the child may be returned if the child has not been placed in the home of adoptive parents at the time of such revocation.

For the purposes of this section, a parent who is less than eighteen years of age shall be deemed fully competent and shall have legal capacity to execute a valid entrustment agreement, including an agreement which provides for permanent separation of the child from such parent, and shall be as fully bound thereby as if such parent had attained the age of eighteen years. An entrustment agreement for permanent separation of the child shall be valid notwithstanding that it is not signed by the father of a child born out of wedlock if the identify of the father is not reasonably ascertainable, or if such father is given notice of the entrustment by registered or certified mail to his last known address and such father fails to object to the entrustment within twenty-one days of the mailing of such notice. An affidavit of the mother that the identity of the father is not reasonably ascertainable shall be sufficient evidence of this fact, provided there is no other evidence which would refute such an affidavit.

*§ 63.1-206.1. Permanent foster care placement.—A. A local department of public welfare or social services or a licensed child-placing agency shall have authority pursuant to a court order to place a child over whom it has legal custody in a permanent foster care placement where the child shall remain until he or she reaches the age of majority. No such child shall be removed from the physical custody of the foster parents in the permanent care placement except with the consent of the foster parents or upon order of the court or pursuant to § 16.1-247. The department or agency so placing a child shall retain legal custody of the child.*

*B. Unless modified by the court order, the foster parent in the permanent foster care placement shall have the authority to consent to surgery, entrance into the armed services, marriage, application for a motor vehicle and operator's license, application for admission into college and any other such activities which require parental consent and shall have the responsibiliity for informing the placing department or agency of any such actions.*

*C. Any child placed in a permanent foster care placement by a local department of public welfare or social services shall be entitled to the same services and benefits as any other child in foster care pursuant to §§ 63.1-55 and 63.1-56 and any other applicable provisions of law.*

*D. The State Board of Welfare shall establish minimum standards for the supervision and evaluation of permanent foster care placements.*

*E. The rate of payment for permanent foster care placements by a local department of public welfare or social services shall be in accordance with standards and rates established by the State Board of Welfare. The rate of payment for such placements by other licensed child-placing agencies shall be in accordance with standards and rates established by the individual agency.*

*F. If the child has a continuing involvement with his or her natural parents, the natural parents should be involved in the planning for a permanent placement. The court*

*order placing the child in a permanent placement shall include a specification of the nature and frequency of visiting arrangements with the natural parents.*

*G. If the residual parental rights of the parents of a child placed in a permanent foster care placement have not been terminated, such parent or parents may petition the court for the return of legal custody; provided, however, no such relief shall be granted unless the parent or parents can demonstrate that it would be in the best interests of the child to be returned to their custody.*

§ 63.1-248.9. Authority to take child into custody.—A physician or protective service worker of a local department or law-enforcement official investigating a report or complaint of abuse and neglect may take a child into custody for up to seventy-two hours without prior approval of parents or guardians provided:

A. The circumstances of the child are such that continuing in his place of residence or in the care or custody of the parent, guardian, custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health *to the extent that severe or irremediable injury would be likely to result*; and

B. A court order is not immediately obtainable; and

C. The court has set up procedures for placing such children; and

D. Following taking the child into custody, the parents or guardians are notified as soon as practicable that he is in custody; and

E. A report is made to the local department; and

F. The court is notified and ~~a court order is obtained as soon as possible~~ *the person or agency taking custody of such child obtains, as soon as possible, but in no event later than seventy-two hours, an emergency removal order pursuant to § 16.1-247; provided, however, if a preliminary removal order is issued after a hearing held in accordance with § 16.1-248 within seventy-two hours of the removal of the child, an emergency removal order shall not be necessary* .

2. That Chapter 8 of Title 16.1 of the Code of Virginia consisting of sections numbered 16.1-139 through 16.1-217 and § 63.1-248.12, as severally amended, are repealed.

3. All acts of the General Assembly of Virginia in its Session of nineteen hundred seventy-six, which amend Chapter 8 of Title 16.1 shall be deemed to be incorporated by reference in this act.

4. That the provisions of this act are severable, and if any part thereof shall be held unconstitutional by a court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.



A BILL to amend §§ 8-654.1 and 8-654.1:1, as amended, of the Code of Virginia, relating to actions against parents for damage to public and private property by minors.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8-654.1 and 8-654.1:1, as amended, of the Code of Virginia are amended and reenacted as follows:

§ 8-654.1. Action against parent for damage to public property by minor.—The State, acting through the officers having charge of the public property involved, or the governing body of a county, city, town, or other political subdivision, or a school board may institute an action and recover from the parents or either of them of any minor living with such parents or either of them for damages suffered by reason of the willful or malicious destruction of, or damage to, public property by such minor, provided that not exceeding ~~two~~ *five* hundred dollars may be recovered from such parents or either of them as a result of any incident or occurrence on which such action is based.

§ 8-654.1:1. Action against parent for damage to private property by minor.—The owner of any property may institute an action and recover from the parents, or either of them, of any minor living with such parents, or either of them, for damages suffered by reason of the willful or malicious destruction of, or damage to, such property by such minor, provided that not exceeding ~~two~~ *five* hundred dollars may be recovered from such parents, or either of them, as a result of any incident or occurrence on which such action is based. Any such recovery from the parent or parents of such minor shall not preclude full recovery from such minor except to the amount of the recovery from such parent or parents. The provisions of this statute shall be in addition to, and not in lieu of, any other law imposing upon a parent liability for the acts of his minor child.

A BILL repeal § 46.1-375.1, as amended, of the Code of Virginia providing for the issuance of the original operator's license by the juvenile and domestic relations district court where applicants are under eighteen years of age.

Be it enacted by the General Assembly of Virginia:

1. That § 46.1-375.1, as amended, of the Code of Virginia is repealed.



**SENATE JOINT RESOLUTION NO.....**

Directing the Virginia Advisory Legislative Council to continue its study on the planning for and delivery of services to youthful offenders and on probation and parole matters.

WHEREAS, the Virginia Advisory Legislative Council has conducted a study and revision of the laws governing troubled children in the juvenile and domestic relations district courts during 1974 and 1975; and

WHEREAS, this work raised other issues which need further study, such as the establishment of a family court system in the Commonwealth; and

WHEREAS, further consideration needs to be given to the need for prevention and diversionary programs at the community level in dealing with the problems of juvenile delinquency, the role the public schools should play in the prevention of juvenile delinquency and the coordination of the delivery of services, both public and private, to youthful offenders and potential offenders; now, therefore, be it

RESOLVED, by the Senate, the House of Delegates concurring, That the Virginia Advisory Legislative Council is hereby directed to continue its study on devising a system of comprehensive planning for and delivery of services to youthful offenders and on devising a system to improve the probation and parole of all offenders. The Council shall not be limited to these matters, but shall consider all aspects relating to this subject. The Council shall also explore the ramifications of implementing a family court structure in Virginia.

The Council shall complete this work and make such recommendations as it deems appropriate to the Governor and General Assembly not later than January one, nineteen hundred seventy-seven.

# TITLE 16.1.

# CHAPTER 10.

# JUVENILE AND DOMESTIC RELATIONS DISTRICT COURT.

## Article 1.

## General Provisions.

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## Article 2.

## Organization and Personnel.



## Article 3.

## Jurisdiction and Venue.



## Article 4.

## Immediate Custody, Arrest, Detention and Shelter Care.





## Article 5.

## Intake, Petition and Notice.



## Article 6.

## Appointment of Counsel.



## Article 7.

## Transfer and Waiver.



## Article 8.

## Adjudication.

## Article 9.

## Disposition.



## Article 10.

## Probation and Parole.



## Article 11.

## Appeal.



## Article 12.

## Confidentiality and Expungement.







## Article 13.

## Facilities for Detention and Other Residential Care.



## Article 14.

## Interstate Compact Relating to Juveniles.

## Suggested Amendments to Other Sections of the Code

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| 8-654.1 | Action against parent for damage to public property by minor. |
| 8-654.1:1 | Action against parent for damage to private property |
| 46.1-375.1 | Manner of issuing original operator's license where applicants are under 18. (Repealed) |
| 53-227.1 | Disposition of property left by ward. |
| 53-329.1 | Observation of mentally defective children. |
| 63.1-56 | Accepting children for placing in homes or institutions; care and control. |
| 63.1-195 | Definitions. |
| 63.1-204 | Acceptance and control over children; placing children for adoption. |
| 63.1-206.1 | Permanent foster care placement. |
| 63.1-248.9 | Authority to take child into custody. |
| 63.1-248.12 | Appointment of attorney as guardian ad litem for child. (Repealed) |



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October 25, 1974

## VIRGINIA ADVISORY LEGISLATIVE COUNCIL SUBCOMMITTEE ON

## JUVENILE JUSTICE CODE REVISION

Issues to be addressed by the Committee:

1. What approach should be taken toward Virginia's juvenile justice system and the juvenile court? Parens patriae concept, due process model, family court system, court of record or some combination thereof.

2. Who should have final discretionary authority as to the disposition of a child who enters the juvenile system? Department of Corrections, Division of Youth Services, Juvenile Court.

3. Is there a need for codified uniform rules of procedure for juvenile and domestic relations district courts? Should the legislature determine what constitutional rights a juvenile is entitled to, or should this be left to the courts to decide on a case-by-case basis?

4. Should status cases or persons-in-need-of-supervision (PINS) cases remain within the juvenile court's jurisdiction or be diverted to other agencies and their programs? If the latter, to what agency should they be diverted and how should these cases be handled? Is § 16.1-158(1)(f) constitutional? § 16.1-158.

5. Are clearer provisions needed to preserve the confidentiality of a child's records in juvenile court and in law enforcement agencies and to determine who has access to such records and other investigative reports? §§ 16.1-163, 16.1-192, 16.1-193.

6. Should the intake process be more formalized? Should there be a mandatory social study of the juvenile if he is placed in pre-hearing detention? § 16.1-164.

7. Should statements made by the juvenile during the intake process be admissible against the child during later court proceedings? § § 16.1-164, 16.1-194.

8. Should traffic violations committed by juveniles be handled by the juvenile court?

9. Do the legal rights and responsibilities of parents in obtaining counsel for themselves in custody cases and in paying for an attorney hired for their child need to be clarified? § 16.1-173.

10. What should the standards be for waiver and transfer of delinquency cases? § 16.1-176.

11. Are guidelines needed for juvenile courts in imposing jail sentences in lieu of other disposition of the juvenile? § 16.1-177.1

12. Should the indeterminate sentence be maintained? With the age of majority now at eighteen (18), should the juvenile court be able to retain jurisdiction until age twenty-one (21)? § 16.1-180.

13. What should be the impact of failure to comply with the apprehension and post-apprehension procedures set out for juveniles in § 16.1-194 et seq.?

14. Should § 16.1-194(3) be revised to list specific criteria for detaining a child in such circumstances?

15. Are more adequate criteria needed for the temporary detention of juveniles and their placement according to the offense committed? § 16.1-199.

16. Should there be a provision for immediate interlocutory appeal of all adverse waiver decisions? § 16.1-214.

17. How should the juvenile be treated on appeal? As a juvenile or as an adult?



END