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HOUSE BILL NO. 670

Offered January 20, 2000

A BILL to amend and reenact §§ 16.1-277.1 and 16.1-292 of the Code of Virginia, relating to time limitations for detention.

Patrons—McDonnell, Darner, Hamilton and Jackson; Senators: Forbes, Howell, Quayle and Trumbo

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 16.1-277.1 and 16.1-292 of the Code of Virginia are amended and reenacted as follows:**

§ 16.1-277.1. Time limitation.

A. When a child is held continuously in secure detention pursuant to subdivision A1 or A3 of § 16.1-248.1, he shall be released from confinement if there is no adjudicatory or transfer hearing conducted by the court for the matters upon which he was detained within twenty-one days from the date he was first detained.

B. When a child is held continuously in secure detention pursuant to subdivision A2 or A4 of § 16.1-248.1, he shall be released from confinement if there is no adjudicatory hearing conducted by the court for the matters upon which he was detained within fourteen days from the date he was first detained.

C. If a child is not held in secure detention or is released from same after having been confined, an adjudicatory or transfer hearing on the matters charged in the petition or petitions issued against him shall be conducted within 120 days from the date the petition or petitions are filed.

ED. When a child is held in secure detention after the completion of his adjudicatory hearing or is detained when the juvenile court has retained jurisdiction as a result of a transfer hearing, he shall be released from such detention if the disposition hearing is not completed within thirty days from the date of the adjudicatory or transfer hearing.

DE. The time limitations provided for in this section shall be tolled during any period in which (i) the whereabouts of the child are unknown, (ii) the child has escaped from custody, or (iii) the child has failed to appear pursuant to a court order. The limitations also may be extended by the court for a reasonable period of time based upon good cause shown, provided that the basis for such extension is recorded in writing and filed among the papers of the proceedings.

§ 16.1-292. Violation of court order by any person.

A. Any person violating an order of the juvenile court entered pursuant to §§ 16.1-278.2 through 16.1-278.19, including a parent subject to an order issued pursuant to subdivision 3 of § 16.1-278.8, may be proceeded against (i) by an order requiring the person to show cause why the order of the court entered pursuant to §§ 16.1-278.2 through 16.1-278.19 has not been complied with, (ii) for contempt of court pursuant to § 16.1-69.24 or as otherwise provided in this section, or (iii) by both. Except as otherwise expressly provided herein, nothing in this chapter shall deprive the court of its power to punish summarily for contempt for such acts as set forth in § 18.2-456, or to punish for contempt after notice and an opportunity for a hearing on the contempt except that confinement in the case of a juvenile may only be imposed if the original charge would warrant confinement under subdivision A1 of § 16.1-248. The confinement shall be in a secure facility for juveniles rather than in jail and shall not exceed a period of ten days for each offense. However, if the person violating the order was a juvenile at the time of the original act and is eighteen years of age or older when the court enters a disposition for violation of the order, the judge may order confinement (i) in jail, or (ii) in a secure facility for juveniles provided the judge finds from the evidence that the presence of the person in such a facility is consistent with assuring the safety of the children confined in the facility and the staff of the facility and the finding is in writing and included in the order.

B. Upon conviction of any party for contempt of court in failing or refusing to comply with an order of a juvenile court for spousal support or child support under § 16.1-278.15, the court may commit and sentence such party to confinement in a jail, workhouse, city farm or work squad as provided in §§ 20-61 and 20-62, for a fixed or indeterminate period or until the further order of the court. In no event, however, shall such sentence be imposed for a period of more than twelve months. The sum or sums as provided for in § 20-63 shall be paid as therein set forth, to be used for the support and maintenance of the spouse or the child or children for whose benefit such order or decree provided.

C. 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 §§ 16.1-278.2 through

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60 16.1-278.10, except as hereinafter provided. However, this limitation shall not be construed to deprive
61 the court of its power to (i) punish a child summarily for contempt for acts set forth in § 18.2-456, or
62 (ii) punish a child for contempt for violation of a dispositional order in a delinquency proceeding after
63 notice and an opportunity for a hearing regarding such contempt, including acts of disobedience of the
64 court's dispositional order which are committed outside the presence of the court.

65 D. In the event a child in need of services is found to have willfully and materially violated for a
66 second or subsequent time the order of the court pursuant to § 16.1-278.4, the dispositional alternatives
67 specified in subdivision 9 of § 16.1-278.8 shall be available to the court.

68 E. In the event a child in need of supervision is found to have willfully and materially violated an
69 order of the court pursuant to § 16.1-278.5, the court may enter any of the following orders of
70 disposition:

71 1. Suspend the child's motor vehicle driver's license;

72 2. Order any such child fourteen years of age or older to be (i) placed in a foster home, group home
73 or other nonsecure residential facility, or, (ii) if the court finds that such placement is not likely to meet
74 the child's needs, that all other treatment options in the community have been exhausted, and that secure
75 placement is necessary in order to meet the child's service needs, detained in a secure facility for a
76 period of time not to exceed ten consecutive days for violation of any order of the court arising out of
77 the same petition. The court shall state in its order for detention the basis for all findings required by
78 this section. When any child is detained in a secure facility pursuant to this section, the court shall
79 direct the agency evaluating the child pursuant to § 16.1-278.5 to reconvene the interdisciplinary team
80 participating in such evaluation as promptly as possible to review its evaluation, develop further
81 treatment plans as may be appropriate and submit its report to the court for its determination as to
82 further treatment efforts either during or following the period the child is in secure detention. A juvenile
83 may only be detained pursuant to this section in a detention home or other secure facility in compliance
84 with standards established by the State Board. Any order issued pursuant to this subsection is a final
85 order and is appealable to the circuit court as provided by law.

86 F. Nothing in this section shall be construed to reclassify a child in need of services or in need of
87 supervision as a delinquent.