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SENATE BILL NO. 520

Offered January 24, 2000

A BILL to amend and reenact § 16.1-358 of the Code of Virginia, relating to juvenile competency.

Patrons—Forbes, Martin, Mims and Stolle; Delegates: Albo, Darner, Jackson, McDonnell, Moran and Weatherholtz

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 16.1-358 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-358. Disposition of the unrestorable incompetent juvenile.

If, at any time after the juvenile is ordered to undergo services pursuant to subsection A of § 16.1-357, the agent providing restoration concludes that the juvenile is likely to remain incompetent for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate whether, in the agent's opinion, the juvenile should be (i) committed pursuant to Article 16 (§ 16.1-335 et seq.) of this chapter; *or, if the juvenile has reached the age of eighteen years at the time of the competency determination, pursuant to §§ 37.1-67.01 through 37.1-70, (ii) certified pursuant to § 37.1-65.1, (iii) provided other services by the court, or (iv) released.* Upon receipt of the report, the court shall make a competency determination according to the procedures specified in subsection F of § 16.1-356. If the court finds that the juvenile is incompetent and is likely to remain so for the foreseeable future, it shall order that the juvenile (i) be committed pursuant to Article 16 (§ 16.1-335 et seq.) of this chapter *or, if the juvenile has reached the age of eighteen years at the time of the competency determination, pursuant to §§ 37.1-67.01 through 37.1-70, (ii) be certified pursuant to § 37.1-65.1, (iii) have a child in need of services petition filed on his behalf pursuant to § 16.1-260 D, or (iv) be released.* If the court finds the juvenile incompetent but restorable to competency in the foreseeable future, it may order restoration services continued until three months have elapsed from the date of the provision of restoration ordered under subsection A of § 16.1-357.

If not dismissed without prejudice at an earlier time, charges against an unrestorably incompetent juvenile shall be dismissed in compliance with the time frames as follows: in the case of a charge which would be a misdemeanor, one year from the date of the juvenile's arrest for such charge; and in the case of a charge which would be a felony, three years from the date of the juvenile's arrest for such charges.

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