

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 16.1-358 of the Code of Virginia, relating to juvenile competency.*

3 [S 520]

4 Approved

5 **Be it enacted by the General Assembly of Virginia:**6 **1. That § 16.1-358 of the Code of Virginia is amended and reenacted as follows:**

7 § 16.1-358. Disposition of the unrestorable incompetent juvenile.

8 If, at any time after the juvenile is ordered to undergo services pursuant to subsection A of
9 § 16.1-357, the agent providing restoration concludes that the juvenile is likely to remain incompetent
10 for the foreseeable future, he shall send a report to the court so stating. The report shall also indicate
11 whether, in the agent's opinion, the juvenile should be (i) committed pursuant to Article 16 (§ 16.1-335
12 et seq.) of this chapter; *or, if the juvenile has reached the age of eighteen years at the time of the*
13 *competency determination, pursuant to §§ 37.1-67.01 through 37.1-70, (ii) certified pursuant to*
14 *§ 37.1-65.1, (iii) provided other services by the court, or (iv) released.* Upon receipt of the report, the
15 court shall make a competency determination according to the procedures specified in subsection F of
16 § 16.1-356. If the court finds that the juvenile is incompetent and is likely to remain so for the
17 foreseeable future, it shall order that the juvenile (i) be committed pursuant to Article 16 (§ 16.1-335 et
18 seq.) of this chapter *or, if the juvenile has reached the age of eighteen years at the time of the*
19 *competency determination, pursuant to §§ 37.1-67.01 through 37.1-70, (ii) be certified pursuant to*
20 *§ 37.1-65.1, (iii) have a child in need of services petition filed on his behalf pursuant to § 16.1-260 D,*
21 *or (iv) be released.* If the court finds the juvenile incompetent but restorable to competency in the
22 foreseeable future, it may order restoration services continued until three months have elapsed from the
23 date of the provision of restoration ordered under subsection A of § 16.1-357.

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