

011953522

SENATE BILL NO. 1288

Offered January 10, 2001

Prefiled January 10, 2001

A BILL to amend and reenact § 16.1-285.2 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-285.01, relating to juveniles convicted of theft or unauthorized use of motor vehicle.

 Patron—Rerras

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-285.2 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 16.1-285.01 as follows:

§ 16.1-285.01. Commitment required for conviction of theft or unauthorized use of a motor vehicle.

A. Notwithstanding any other provision of law, when any juvenile is found guilty of any theft of a motor vehicle or its unauthorized use, and the offense is a second or subsequent conviction within three years, the court shall order the juvenile committed to the Department of Juvenile Justice for a determinate period of time.

B. In ordering commitment pursuant to this section, the court shall specify a period of commitment of no less than six months and no more than one year. The court may also order a period of determinate or indeterminate parole supervision to follow the commitment but the total period of commitment and parole supervision shall not exceed two years.

C. Upon receipt of a juvenile committed under the provisions of this section, the Department shall evaluate the juvenile for the purpose of considering placement of the juvenile in an appropriate juvenile correctional center for the time prescribed by the committing court. Such a placement decision shall be made based on the availability of treatment programs at the facility; the level of security at the facility; and the welfare, age and gender of the juvenile.

D. The court that commits the juvenile to the Department under this section shall have continuing jurisdiction over the juvenile throughout his commitment. The continuing jurisdiction of the court shall not prevent the Department from removing the juvenile from a juvenile correctional center without prior court approval for the sole purposes of routine or emergency medical treatment, routine educational services, or family emergencies.

E. Any juvenile committed under the provisions of this section shall not be released at a time earlier than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The Department may petition the committing court for a hearing, as provided for in § 16.1-285.2, for an earlier release of the juvenile when good cause exists for an earlier release.

§ 16.1-285.2. Release and review hearing for certain offenders.

A. Upon receipt of a petition of the Department of Juvenile Justice for a hearing concerning a juvenile committed under § 16.1-285.1 or § 16.1-285.01, the court shall schedule a hearing within thirty days and shall appoint counsel for the juvenile pursuant to § 16.1-266. The court shall provide a copy of the petition, the progress report required by this section, and notice of the time and place of the hearing to (i) the juvenile, (ii) the juvenile's parent, legal guardian, or person standing in loco parentis, (iii) the juvenile's guardian ad litem, if any, (iv) the juvenile's legal counsel, and (v) the attorney for the Commonwealth who prosecuted the juvenile during the delinquency proceeding. The attorney for the Commonwealth shall provide notice of the time and place of the hearing by first-class mail to the last known address of any victim of the offense for which the juvenile was committed if such victim has submitted a written request for notification to the attorney for the Commonwealth.

B. The petition shall be filed in the committing court and shall be accompanied by a progress report from the Department. This report shall describe (i) the facility and living arrangement provided for the juvenile by the Department, (ii) the services and treatment programs afforded the juvenile, (iii) the juvenile's progress toward treatment goals and objectives, which shall include a summary of his educational progress, (iv) the juvenile's potential for danger to either himself or the community, and (v) a comprehensive aftercare plan for the juvenile.

B1. The appearance of the juvenile before the court may be by (i) personal appearance before the judge, or (ii) use of two-way electronic video and audio communication. If two-way electronic video and audio communication is used, a judge may exercise all powers conferred by law and all communications and proceedings shall be conducted in the same manner as if the appearance were in

59 person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or
60 executed by the officer or person to whom sent, and returned in the same manner, and with the same
61 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as
62 original signatures. Any two-way electronic video and audio communication system used for an
63 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

64 C. At the hearing the court shall consider the progress report. The court may also consider additional
65 evidence from (i) probation officers, the juvenile correctional center, treatment professionals, and the
66 court service unit; (ii) the juvenile, his legal counsel, parent, guardian or family member; or (iii) other
67 sources the court deems relevant. The hearing and all records relating thereto shall be governed by the
68 confidentiality provisions of Article 12 (§ 16.1-299 et seq.) of this chapter.

69 D. At the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to
70 the Department for completion of the original determinate period of commitment or such lesser time as
71 the court may order or (ii) release of the juvenile under such terms and conditions as the court may
72 prescribe. In making a determination under this section, the court shall consider (i) the experiences and
73 character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile
74 was found to have committed, (iii) the manner in which the offenses were committed, (iv) the protection
75 of the community, (v) the recommendations of the Department, and (vi) any other factors the court
76 deems relevant. The order of the court shall be final and not subject to appeal.

77 **2. That the provisions of this act may result in a net increase in periods of imprisonment in state**
78 **correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation**
79 **is \$0.**