

# VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

## CHAPTER 108

*An Act to amend and reenact § 16.1-300 of the Code of Virginia, relating to confidentiality of Department records.*

[S 1078]

Approved March 16, 2003

**Be it enacted by the General Assembly of Virginia:**

**1. That § 16.1-300 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-300. Confidentiality of Department records.

A. The social, medical, psychiatric and psychological reports and records of children who are or have been (i) before the court, (ii) under supervision, or (iii) receiving services from a court service unit or who are committed to the Department of Juvenile Justice shall be confidential and shall be open for inspection only to the following:

1. The judge, prosecuting attorney, probation officers and professional staff assigned to serve a court having the child currently before it in any proceeding;

2. Any public agency, child welfare agency, private organization, facility or person who is treating or providing services to the child pursuant to a contract with the Department or pursuant to the Virginia Juvenile Community Crime Control Act as set out in Article 12.1 (§ 16.1-309.2 et seq.) of Chapter 11 of this title;

3. The child's parent, guardian, legal custodian or other person standing in loco parentis and the child's attorney;

4. Any person ~~who previously has been a ward of the Department~~ and who has reached the age of majority and requests access to his own records or reports;

5. Any state agency providing funds to the Department of Juvenile Justice and required by the federal government to monitor or audit the effectiveness of programs for the benefit of juveniles which are financed in whole or in part by federal funds;

6. 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;

7. Any person, agency or institution having a legitimate interest when release of the confidential information is (i) for the provision of treatment or rehabilitation services for the juvenile who is the subject of the information or (ii) when the requesting party has custody or is providing supervision for a juvenile and the release of the confidential information is in the interest of maintaining security in a secure facility as defined by § 16.1-228;

8. The attorney for the Commonwealth and adult probation and parole officers for the purpose of preparing presentence reports as provided in § 19.2-299 or discretionary sentencing guidelines worksheets, including related risk assessment instruments, as directed by the court pursuant to subsection C of § 19.2-298.01; and

9. Any person, agency, organization or institution outside the Department that, at the Department's request, is conducting research or evaluation on the work of the Department or any of its divisions.

A designated individual treating or responsible for the treatment of a person ~~who was previously a ward of the Department~~ may inspect such reports and records as are kept by the Department on such person or receive copies thereof, when the person who is the subject of the reports and records or his parent, guardian, legal custodian or other person standing in loco parentis if the person is under the age of ~~eighteen~~ 18, provides written authorization to the Department prior to the release of such reports and records for inspection or copying to the designated individual.

B. The Department may withhold from inspection by a child's parent, guardian, legal custodian or other person standing in loco parentis that portion of the records referred to in *subsection A* hereof, when the staff of the Department determines, in its discretion, that disclosure of such information would be detrimental to the child *or to a third party*, provided that the juvenile and domestic relations district court (i) having jurisdiction over the facility where the child is currently placed *or (ii) that last had jurisdiction over the child if such child is no longer in the custody or under the supervision of the Department* shall concur in such determination.

If a ~~parent, guardian, legal custodian or other person standing in loco parentis~~ *any person authorized under subsection A to inspect Department records* requests to inspect the reports and records ~~concerning his child~~ and if the Department withholds from inspection any portion of such record or report pursuant to the preceding provisions, the Department shall (i) inform the individual making the request of the action taken to withhold any information and the reasons for such action; (ii) provide such individual with as much information ~~about the child's progress~~ as is deemed appropriate under the circumstances; and (iii) notify the individual in writing at the time of the request of his right to request judicial review

of the Department's decision. The circuit court *(a)* having jurisdiction over the facility where the child is currently placed *or (b) that had jurisdiction over the original proceeding or over an appeal of the juvenile and domestic relations district court final order of disposition concerning the child if such child is no longer in the custody or under the supervision of the Department* shall have jurisdiction over petitions filed by a parent, guardian, legal custodian or other person standing in loco parentis for review of the Department's decision to withhold reports or records as provided herein.