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SENATE BILL NO. 1246

Offered January 9, 2003

A BILL to amend and reenact §§ 16.1-286 and 16.1-290 of the Code of Virginia, relating to child support payments for juveniles committed to the Department of Juvenile Justice.

Patrons—Mims and Potts; Delegate: McDonnell

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-286 and 16.1-290 of the Code of Virginia are amended and reenacted as follows:

§ 16.1-286. Cost of maintenance; approval of placement; semiannual review.

A. When the court determines that the behavior of a child within its jurisdiction is such that it cannot be dealt with in the child's own locality or with the resources of his locality, the judge shall refer the child to the locality's family assessment and planning team for assessment and a recommendation for services. Based on this recommendation, the court may take custody and place the child, pursuant to the provisions of subdivision 5 of § 16.1-278.4 or 13 b of § 16.1-278.8, in a private or locally operated public facility, or nonresidential program with funding in accordance with the Comprehensive Services Act for At-Risk Youth and Families (§ 2.2-5200 et seq.). No child shall be placed outside the Commonwealth by a court without first complying with the appropriate provisions of Chapter 11 (§ 63.2-1100 et seq.) of Title 63.2 or with regulations of the State Board of Social Services relating to resident children placed out of the Commonwealth.

The Board shall establish a per diem allowance to cover the cost of such placements. This allowance may be drawn from funds allocated through the state pool of funds to the community policy and management team of the locality where the child resides as such residence is determined by the court. The cost, however, shall not exceed that amount which would be incurred if the services required by the child were provided in a juvenile facility operated by the Department of Juvenile Justice. However, when the court determines after an investigation and a hearing that the child's parent or other person legally obligated to provide support is financially able to contribute to support of the child, the court may order that the parent or other legally obligated person pay, ~~in such manner as the court may direct, reasonable sums commensurate with the ability to pay toward the support and treatment of the child placed in a program pursuant to this section~~ § 16.1-290. If the parent or other obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt. Alternatively, the court, after reasonable notice to the obligor, may enter an order adjudicating that the obligor is delinquent and such order shall have the effect of a civil judgment when duly docketed in the manner prescribed for the docketing of other judgments for money provided.

B. The court service unit of the locality which made the placement shall be responsible for monitoring and supervising all children placed pursuant to this section. The court shall receive and review, at least semiannually, recommendations concerning the continued care of each child in such placements.

~~C. The Director shall cause a current roster to be maintained concerning the whereabouts of all children placed pursuant to this section.~~

§ 16.1-290. Support of committed juvenile; support from estate of juvenile.

A. Whenever (i) legal custody of a juvenile is vested by the court in someone other than his parents or (ii) a juvenile is ~~(a) placed in temporary shelter care regardless of whether or not legal custody is retained by his parents, or (b) placed in temporary physical custody of the Department pursuant to subdivision 4a of § 16.1-278.8,~~ after due notice to the parents or other persons legally obligated to care for and support the juvenile, and after an investigation and hearing, the court shall order and decree that the parent or other legally obligated person shall pay, in such a manner as the court may direct, a reasonable sum commensurate with the ability to pay, that will cover all or part of the cost of support and treatment of the juvenile after the decree is entered. If the parent or other legally obligated person willfully fails or refuses to pay such sum, the court may proceed against him for contempt, or the order may be filed and shall have the effect of a civil judgment.

B. If a juvenile has an estate in the hands of a guardian or trustee, the guardian or trustee may be required to pay for his education and maintenance so long as there may be funds for that purpose.

C. Whenever a juvenile is placed in foster care by the court, the court shall order and decree that the parent or other legally obligated person shall pay the Department of Social Services pursuant to §§ 20-108.1, 20-108.2, 63.2-909, and 63.2-1910.

D. *Whenever a juvenile is placed in temporary custody of the Department pursuant to subdivision 4a*

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SB1246

59 *of § 16.1-278.8 or committed to the Department pursuant to subdivision A 14 of § 16.1-278.8, the*
60 *Department shall apply for child support with the appropriate division in the Department of Social*
61 *Services responsible for child support enforcement.*