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## SENATE BILL NO. 339

Senate Amendments in [ ] — February 6, 2004

A *BILL to amend and reenact § 16.1-278.8 of the Code of Virginia, relating to dispositions for delinquent juveniles.*

Patrons Prior to Engrossment—Senator Edwards; Delegate: Baskerville

Referred to Committee for Courts of Justice

**Be it enacted by the General Assembly of Virginia:****1. That § 16.1-278.8 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-278.8. Delinquent juveniles.

A. If a juvenile is found to be delinquent, except where such finding involves a refusal to take a blood or breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile court or the circuit court may make any of the following orders of disposition for his supervision, care and rehabilitation:

1. Enter an order pursuant to the provisions of § 16.1-278;

2. Permit the juvenile to remain with his parent, subject to such conditions and limitations as the court may order with respect to the juvenile and his parent;

3. Order the parent of a juvenile living with him to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile and his parent;

4. Defer disposition for a period of time not to exceed twelve months, after which time the charge may be dismissed by the judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

4a. Defer disposition and place the juvenile in the temporary custody of the Department to attend a boot camp established pursuant to § 66-13 provided bed space is available for confinement and the juvenile (i) has been found delinquent for an offense which would be a Class 1 misdemeanor or felony if committed by an adult, (ii) has not previously been and is not currently being adjudicated delinquent or found guilty of a violent juvenile felony, (iii) has not previously attended a boot camp, (iv) has not previously been committed to and received by the Department, and (v) has had an assessment completed by the Department or its contractor concerning the appropriateness of the candidate for a boot camp. Upon the juvenile's withdrawal, removal or refusal to comply with the terms and conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition as authorized by this section which could have been imposed at the time the juvenile was placed in the custody of the Department;

5. Without entering a judgment of guilty and with the consent of the juvenile and his attorney, defer disposition of the delinquency charge for a period not to exceed twelve months and place the juvenile on probation under such conditions and limitations as the court may prescribe. Upon fulfillment of the terms and conditions, the court shall discharge the juvenile and dismiss the proceedings against him. Discharge and dismissal under these provisions shall be without adjudication of guilt;

6. Order the parent of a juvenile with whom the juvenile does not reside to participate in such programs, cooperate in such treatment or be subject to such conditions and limitations as the court may order and as are designed for the rehabilitation of the juvenile where the court determines this participation to be in the best interest of the juvenile and other parties concerned and where the court determines it reasonable to expect the parent to be able to comply with such order;

7. Place the juvenile on probation under such conditions and limitations as the court may prescribe;

7a. Place the juvenile on probation and order treatment for the abuse or dependence on alcohol or drugs in a program licensed by the Department of Mental Health, Mental Retardation and Substance Abuse Services for the treatment of juveniles for substance abuse provided that (i) the juvenile has received a substance abuse screening and assessment pursuant to § 16.1-273 and that such assessment reasonably indicates that the commission of the offense was motivated by, or closely related to, the habitual use of alcohol or drugs and indicates that the juvenile is in need of treatment for this condition; (ii) the juvenile has not previously been and is not currently being adjudicated for a violent juvenile felony; and (iii) such facility is available. Upon the juvenile's withdrawal, removal, or refusal to comply with the conditions of participation in the program, he shall be brought before the court for a hearing at which the court may impose any other disposition authorized by this section. The court shall review such placements at ~~thirty~~ 30-day intervals;

8. Impose a fine not to exceed \$500 upon such juvenile;

9. Suspend the motor vehicle and driver's license of such juvenile or impose a curfew on the juvenile

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59 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is  
60 suspended may be referred for an assessment and subsequent referral to appropriate services, upon such  
61 terms and conditions as the court may order. The court, in its discretion and upon a demonstration of  
62 hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who  
63 enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to  
64 and from school. The restricted permit shall be issued in accordance with the provisions of such  
65 subsection. However, only an abstract of the court order which identifies the juvenile and the conditions  
66 under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

67 If a curfew is imposed, the juvenile shall surrender his driver's license, which shall be held in the  
68 physical custody of the court during any period of curfew restriction. The court shall send an abstract of  
69 any order issued under the provisions of this section to the Department of Motor Vehicles, which shall  
70 preserve a record thereof. Notwithstanding the provisions of Article 12 (§ 16.1-299 et seq.) of this  
71 chapter or the provisions of Title 46.2, this record shall be available only to all law-enforcement  
72 officers, attorneys for the Commonwealth and courts. A copy of the court order, upon which shall be  
73 noted all curfew restrictions, shall be provided to the juvenile and shall contain such information  
74 regarding the juvenile as is reasonably necessary to identify him. The juvenile may operate a motor  
75 vehicle under the court order in accordance with its terms.

76 Any juvenile who operates a motor vehicle in violation of any restrictions imposed pursuant to this  
77 section shall be guilty of a violation of § 46.2-301.

78 The Department of Motor Vehicles shall refuse to issue a driver's license to any juvenile denied a  
79 driver's license until such time as is stipulated in the court order or until notification by the court of  
80 withdrawal of the order imposing the curfew;

81 10. Require the juvenile to make restitution or reparation to the aggrieved party or parties for actual  
82 damages or loss caused by the offense for which the juvenile was found to be delinquent;

83 11. Require the juvenile to participate in a public service project under such conditions as the court  
84 prescribes;

85 12. In case of traffic violations, impose only those penalties which are authorized to be imposed on  
86 adults for such violations. However, for those violations punishable by confinement if committed by an  
87 adult, confinement shall be imposed only as authorized by this title;

88 13. Transfer legal custody to any of the following:

89 a. A relative or other individual who, after study, is found by the court to be qualified to receive and  
90 care for the juvenile;

91 b. A child welfare agency, private organization or facility which is licensed or otherwise authorized  
92 by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a  
93 delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the  
94 approval of the Director; or

95 c. The local board of social services of the county or city in which the court has jurisdiction or, at  
96 the discretion of the court, to the local board of the county or city in which the juvenile has residence if  
97 other than the county or city in which the court has jurisdiction. The board shall accept the juvenile for  
98 care and custody, provided that it has been given reasonable notice of the pendency of the case and an  
99 opportunity to be heard. However, in an emergency in the county or city in which the court has  
100 jurisdiction, such local board may be required to temporarily accept a juvenile for a period not to exceed  
101 ~~fourteen~~ 14 days without prior notice or an opportunity to be heard if the judge entering the placement  
102 order describes the emergency and the need for such temporary placement in the order. Nothing in this  
103 subdivision shall prohibit the commitment of a juvenile to any local board of social services in the  
104 Commonwealth when such local board consents to the commitment. The board to which the juvenile is  
105 committed shall have the final authority to determine the appropriate placement for the juvenile. Any  
106 order authorizing removal from the home and transferring legal custody of a juvenile to a local board of  
107 social services as provided in this subdivision shall be entered only upon a finding by the court that  
108 reasonable efforts have been made to prevent removal and that continued placement in the home would  
109 be contrary to the welfare of the juvenile, and the order shall so state;

110 14. Commit the juvenile to the Department of Juvenile Justice, but only if he is ~~eleven~~ 11 years of  
111 age or older and the current offense is (i) an offense which would be a felony if committed by an adult,  
112 (ii) an offense which would be a Class 1 misdemeanor if committed by an adult and the juvenile has  
113 previously been found to be delinquent based on an offense which would be a felony if committed by  
114 an adult, ~~or~~ (iii) an offense which would be a Class 1 misdemeanor if committed by an adult and the  
115 juvenile has previously been adjudicated delinquent on three occasions for offenses which would be  
116 Class 1 misdemeanors if committed by an adult, [ ~~or (iv) a violation of § 18.2-308.7, if the liberty of a~~  
117 *juvenile constitutes a clear and substantial threat to the person or property of others or to such*  
118 *juvenile's life or health;* or (iv) a violation of § 18.2-308.7, if the juvenile has been previously found  
119 delinquent based on an offense that would be a Class 1 misdemeanor if committed by an adult and if  
120 *the liberty of the juvenile constitutes a clear and substantial threat to the life or health of the juvenile*

121 *or others; ]*

122 15. Impose the penalty authorized by § 16.1-284;

123 16. Impose the penalty authorized by § 16.1-284.1;

124 17. Impose the penalty authorized by § 16.1-285.1;

125 18. Impose the penalty authorized by § 16.1-278.9; or

126 19. Require the juvenile to participate in a gang-activity prevention program including, but not  
127 limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to  
128 § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations:  
129 §§ 18.2-51, 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127,  
130 18.2-128, 18.2-137, 18.2-138, 18.2-146, or § 18.2-147, or any violation of a local ordinance adopted  
131 pursuant to § 18.2-138.1.

132 B. If the court finds a juvenile delinquent of any of the following offenses, the court shall require the  
133 juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the  
134 offense, or for actual medical expenses incurred by the victim as a result of the offense: §§ 18.2-51,  
135 18.2-51.1, 18.2-52, 18.2-53, 18.2-55, 18.2-56, 18.2-57, 18.2-57.2, 18.2-121, 18.2-127, 18.2-128,  
136 18.2-137, 18.2-138, 18.2-146, or § 18.2-147; or for any violation of a local ordinance adopted pursuant  
137 to § 18.2-138.1. The court shall further require the juvenile to participate in a community service project  
138 under such conditions as the court prescribes.

139 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
140 **commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0**  
141 **for periods of imprisonment in state adult correctional facilities and is \$1,424,438 for periods of**  
142 **commitment to the custody of the Department of Juvenile Justice.**

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