

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 94

An Act to amend and reenact § 16.1-284.1 of the Code of Virginia, relating to juveniles held in secure local facility; conduct of hearing.

[H 849]

Approved March 6, 2012

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-284.1 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-284.1. Placement in secure local facility.

A. If a juvenile ~~fourteen~~ 14 years of age or older is found to have committed an offense which if committed by an adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) that the juvenile has not previously been and is not currently adjudicated delinquent of a violent juvenile felony or found guilty of a violent juvenile felony, (ii) that the juvenile has not been released from the custody of the Department within the previous ~~eighteen~~ 18 months, (iii) that the interests of the juvenile and the community require that the juvenile be placed under legal restraint or discipline, and (iv) that other placements authorized by this title will not serve the best interests of the juvenile, then the court may order the juvenile confined in a detention home or other secure facility for juveniles for a period not to exceed six months from the date the order is entered, for a single offense or multiple offenses.

The period of confinement ordered may exceed ~~thirty~~ 30 calendar days if the juvenile has had an assessment completed by the secure facility to which he is ordered concerning the appropriateness of the placement.

B. If the period of confinement in a detention home or other secure facility for juveniles is to exceed ~~thirty~~ 30 calendar days, then the court shall order the juvenile committed to the Department, if he is eligible pursuant to subdivision A 14 of § 16.1-278.8, but suspend such commitment. In suspending the commitment to the Department as provided for in this subsection, the court shall specify conditions for the juvenile's satisfactory completion of one or more community or facility based treatment programs as may be appropriate for the juvenile's rehabilitation.

C. During any period of confinement which exceeds ~~thirty~~ 30 calendar days ordered pursuant to this section, the court shall conduct a mandatory review hearing at least once during each ~~thirty~~ 30 days and at such other times upon the request of the juvenile's probation officer, for good cause shown. If it appears at such hearing that the purpose of the order of confinement has been achieved, the juvenile shall be released on probation for such period and under such conditions as the court may specify and remain subject to the order suspending commitment to the State Department of Juvenile Justice. If the juvenile's commitment to the Department has been suspended as provided in subsection B of this section, and if the court determines at the first or any subsequent review hearing that the juvenile is consistently failing to comply with the conditions specified by the court or the policies and program requirements of the facility, then the court shall order that the juvenile be committed to the State Department of Juvenile Justice. If the court determines at the first or any subsequent review hearing that the juvenile is not actively involved in any community facility based treatment program through no fault of his own, then the court shall order that the juvenile be released under such conditions as the court may specify subject to the suspended commitment.

C1. The appearance of the juvenile before the court for a hearing pursuant to subsection C 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 person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or executed by the officer or person to whom sent, and returned in the same manner, and with the same force, effect, authority, and liability as an original document. All signatures thereon shall be treated as original signatures. Any two-way electronic video and audio communication system used for an appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

D. A juvenile may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements. Standards for these facilities shall require juveniles placed pursuant to this section for a period which exceeds ~~thirty~~ 30 calendar days be provided separate services for their rehabilitation, consistent with the intent of this section.

E. The Department of Juvenile Justice shall assist the localities or combinations thereof in implementing this section consistent with the statewide plan required by § 16.1-309.4 and pursuant to standards promulgated by the State Board, in order to ensure the availability and reasonable access of

each court to the facilities the use of which is authorized by this section.