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HOUSE BILL NO. 1957

Offered January 9, 2019

Prefiled January 6, 2019

A BILL to amend and reenact § 16.1-278.4 of the Code of Virginia, relating to children in need of services; disposition; certification by parent that firearms are reasonably secure.

Patrons—Toscano, Levine, Lopez and Sullivan

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-278.4 of the Code of Virginia is amended and reenacted as follows:

§ 16.1-278.4. Children in need of services.

If a child is found to be in need of services or a status offender, the juvenile court or the circuit court may make any of the following orders of disposition for the supervision, care and rehabilitation of the child:

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

2. Permit the child to remain with his parent subject to such conditions and limitations as the court may order with respect to such child and his parent, *including requiring the parent to certify to the court that any firearms located in the house where such child and his parent reside are reasonably secure as to prevent such child's access.*

3. Order the parent with whom the child is living 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 child and his parent.

4. Beginning July 1, 1992, in the case of any child ~~fourteen~~ 14 years of age or older, where the court finds that the child is not able to benefit appreciably from further schooling, the court may excuse the child from further compliance with any legal requirement of compulsory school attendance as provided under § 22.1-254 or authorize the child, notwithstanding the provisions of any other law, to be employed in any occupation which is not legally declared hazardous for children under the age of ~~eighteen~~ 18.

5. Permit the local board of social services or a public agency designated by the community policy and management team to place the child, subject to the provisions of § 16.1-281, in suitable family homes, child caring-institutions, residential facilities, or independent living arrangements with legal custody remaining with the parents or guardians. The local board or public agency and the parents or guardians shall enter into an agreement which shall specify the responsibilities of each for the care and control of the child. The board or public agency that places the child shall have the final authority to determine the appropriate placement for the child.

Any order allowing a local board or public agency to place a child where legal custody remains with the parents or guardians as provided in this section shall be entered only upon a finding by the court that reasonable efforts have been made to prevent placement out of the home and that continued placement in the home would be contrary to the welfare of the child, and the order shall so state.

6. Transfer legal custody to any of the following:

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

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such child. The court shall not transfer legal custody of a child in need of services to an agency, organization or facility out of the Commonwealth without the approval of the Commissioner of Social Services; or

c. The local board of social services of the county or city in which the court has jurisdiction or, at the discretion of the court, to the local board of the county or city in which the child has residence if other than the county or city in which the court has jurisdiction. The local board shall accept the child for care and custody, provided that it has been given reasonable notice of the pendency of the case and an opportunity to be heard. However, in an emergency in the county or city in which the court has jurisdiction, the local board may be required to accept a child for a period not to exceed ~~fourteen~~ 14 days without prior notice or an opportunity to be heard if the judge entering the placement order describes the emergency and the need for such temporary placement in the order. Nothing in this subdivision shall prohibit the commitment of a child to any local board of social services in the Commonwealth when the local board consents to the commitment. The board to which the child is committed shall have the final authority to determine the appropriate placement for the child.

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59 Any order authorizing removal from the home and transferring legal custody of a child to a local
60 board of social services as provided in this subdivision shall be entered only upon a finding by the court
61 that reasonable efforts have been made to prevent removal and that continued placement in the home
62 would be contrary to the welfare of the child, and the order shall so state.

63 A finding by the court that reasonable efforts were made to prevent removal of the child from his
64 home shall not be required if the court finds that (i) the residual parental rights of the parent regarding a
65 sibling of the child have previously been involuntarily terminated; (ii) the parent has been convicted of
66 an offense under the laws of the Commonwealth or a substantially similar law of any other state, the
67 United States, or any foreign jurisdiction that constitutes murder or voluntary manslaughter, or a felony
68 attempt, conspiracy, or solicitation to commit any such offense, if the victim of the offense was a child
69 of the parent, a child with whom the parent resided at the time such offense occurred, or the other
70 parent of the child; (iii) the parent has been convicted of an offense under the laws of the
71 Commonwealth or a substantially similar law of any other state, the United States, or any foreign
72 jurisdiction that constitutes felony assault resulting in serious bodily injury or felony bodily wounding
73 resulting in serious bodily injury or felony sexual assault, if the victim of the offense was a child of the
74 parent or a child with whom the parent resided at the time of such offense; or (iv) on the basis of clear
75 and convincing evidence, the parent has subjected any child to aggravated circumstances, or abandoned
76 a child under circumstances that would justify the termination of residual parental rights pursuant to
77 subsection D of § 16.1-283.

78 As used in this section:

79 "Aggravated circumstances" means torture, chronic or severe abuse, or chronic or severe sexual
80 abuse, if the victim of such conduct was a child of the parent or child with whom the parent resided at
81 the time such conduct occurred, including the failure to protect such a child from such conduct, which
82 conduct or failure to protect (i) evinces a wanton or depraved indifference to human life or (ii) has
83 resulted in the death of such a child or in serious bodily injury to such a child.

84 "Chronic abuse" or "chronic sexual abuse" means recurring acts of physical abuse that place the
85 child's health, safety and well-being at risk.

86 "Serious bodily injury" means bodily injury that involves substantial risk of death, extreme physical
87 pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily
88 member, organ or mental faculty.

89 "Severe abuse" or "severe sexual abuse" may include an act or omission that occurred only once but
90 otherwise meets the definition of "aggravated circumstances."

91 7. Require the child to participate in a public service project under such conditions as the court
92 prescribes.