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**HOUSE BILL NO. 551**

Offered January 8, 2020

Prefiled January 5, 2020

*A BILL to amend and reenact §§ 2.2-1837, 2.2-3007, 8.01-195.10, 16.1-249, 16.1-269.1, 16.1-285.1, 16.1-285.2, 16.1-309.4, 18.2-48.1, 18.2-431.1, 18.2-473, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-477.2, 22.1-209.1:2, 22.1-289, 29.1-317, 66-3, 66-13, 66-13.1, 66-18, 66-25.1:1, 66-25.1:3, and 66-25.2:1 of the Code of Virginia, relating to juvenile community correctional centers; establishment; placement of juveniles.*

Patrons—Ward, Carr and Kory

Referred to Committee on Public Safety

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

**1. That §§ 2.2-1837, 2.2-3007, 8.01-195.10, 16.1-249, 16.1-269.1, 16.1-285.1, 16.1-285.2, 16.1-309.4, 18.2-48.1, 18.2-431.1, 18.2-473, 18.2-473.1, 18.2-474, 18.2-474.1, 18.2-477.2, 22.1-209.1:2, 22.1-289, 29.1-317, 66-3, 66-13, 66-13.1, 66-18, 66-25.1:1, 66-25.1:3, and 66-25.2:1 of the Code of Virginia are amended and reenacted as follows:**

**§ 2.2-1837. Risk management plan for public liability.**

A. Subject to the approval of the Governor, the Division shall establish a risk management plan, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance to provide:

1. Protection against liability imposed by law for damages resulting from any claim:

a. Made against any state department, agency, institution, board, commission, officer, agent, or employee for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization;

b. Made against participants, other than professional counsel, in student disciplinary proceedings at public institutions of higher education for nonmalicious acts or omissions of any nature in the course and scope of participation in the proceedings; or

c. Resulting from an authorized indemnification agreement entered into by a public institution of higher education in the Commonwealth in accordance with this subsection.

A public institution of higher education in the Commonwealth may execute an indemnification agreement if the Governor (i) considers in advance of execution (a) the institution's analysis of the relevant public benefit and risk of liability, (b) the Division's charge to be assessed against the institution for providing insurance or self-insurance coverage for the claims resulting from the indemnification agreement, and (c) the Office of the Attorney General's comments and (ii) determines that execution is necessary to further the public's best interests.

The indemnification agreement shall limit the institution's total liability to a stated dollar amount and shall notify the contractor that the full faith and credit of the Commonwealth are not pledged or committed to payment of the institution's obligation under the agreement. However, no such institution shall be authorized to enter into an indemnification agreement in accordance with this subsection to indemnify any person or entity against damages arising from a sponsored project conducted by such institution. For the purposes of this section, a "sponsored project" is a research, instruction, or service project conducted at a public institution of higher education in the Commonwealth pursuant to a grant, cooperative agreement, or other contract;

2. Protection against tort liability and incidental medical payments arising out of the ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of their employment;

3. For the payment of attorney fees and expenses incurred in defending such persons and entities concerning any claim that (i) arises from their governmental employment or authorization, that (ii) arises from their participation in such student disciplinary proceedings, or (iii) is described in any such indemnification agreement, where the Division is informed by the Attorney General's office that it will not provide a defense due to a conflict or other appropriate reason; and

4. For the payment of attorney fees and expenses awarded to any individual or entity against the Commonwealth, or any department, agency, institution, board, commission, officer, agent, or employee of the Commonwealth for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity, or in reliance upon any constitutional provision, or law of the Commonwealth. It is the obligation of the Division to provide for such indemnification regardless of whether there is a request for or an award of damages associated with the award of such fees and expenses.

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59 a. As a condition of coverage for the payment of attorney fees and expenses, the department, agency,  
60 institution, board, commission, officer, agent, or employee of the Commonwealth shall (i) promptly  
61 notify the Division of the commencement of any claim, suit, action or other proceeding prior to its  
62 settlement, (ii) provide the Division with full nonprivileged information on the matter as requested, and  
63 (iii) permit the Division to participate in the investigation of such claim, suit, action or other proceeding.  
64 Failure to promptly notify the Division or to reasonably cooperate may, at the Division's discretion,  
65 result in no payment or a reduced payment being made.

66 b. The Division shall set the premium and administrative costs to be paid to it for providing payment  
67 of attorney fees and expenses awarded pursuant to this section. The premiums and administrative costs  
68 set by the Division shall be payable in the amounts, at the time and in the manner that the Division in  
69 its sole discretion requires. Premiums and administrative costs shall be set to best ensure the financial  
70 stability of the plan.

71 B. Any risk management plan established pursuant to this section shall provide for the establishment  
72 of a trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims  
73 covered under the plan. The funds shall be invested as provided in § 2.2-1806 and interest shall be  
74 added to the fund as earned. The trust fund shall also provide for payment of administrative costs,  
75 contractual costs, and other expenses related to the administration of such plan.

76 C. The risk management plan for public liability shall be submitted to the Governor for approval  
77 prior to implementation.

78 D. The risk management plan established pursuant to this section shall provide protection against  
79 professional liability imposed by law as provided in § 24.2-121, resulting from any claim made against a  
80 local electoral board, any of its members, any general registrar, or any employee of or paid assistant to a  
81 registrar for acts or omissions of any nature while acting in an authorized governmental or proprietary  
82 capacity and in the course and scope of employment or authorization, regardless of whether or not the  
83 civil action requests monetary damages, subject to the limitations of the risk management plan.

84 E. The risk management plan established pursuant to this section shall provide protection against any  
85 claim made against any soil and water conservation district, director, officer, agent or employee thereof,  
86 (i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or  
87 maintained by any such district or used by district employees or other authorized persons in the course  
88 of their employment or (ii) arising out of acts or omissions of any nature while acting in an authorized  
89 governmental or proprietary capacity and in the course and scope of employment or authorization.

90 F. The risk management plan established pursuant to this section shall provide protection against  
91 professional liability imposed by law for damages resulting from any claim made against a local school  
92 board selection commission or local school board selection commission members for acts or omissions  
93 of any nature while acting in an authorized governmental or proprietary capacity and in the course and  
94 scope of authorization, subject to the limitations of the risk management plan.

95 G. The risk management plan established pursuant to this section shall provide coverage for any  
96 matter that involves or could involve an action or proceeding against a judge, the nature of which is  
97 designed to determine whether discipline or other sanction of the judge for malfeasance or misfeasance  
98 is appropriate or to otherwise determine the fitness of the judge to hold office or to continue his  
99 employment. No coverage or indemnification shall be made pursuant to this subsection when the  
100 Supreme Court of Virginia finds that the judge should be censured or removed from office pursuant to  
101 Section 10 of Article VI of the Constitution of Virginia or statutes enacted pursuant thereto.

102 H. The risk management plan established pursuant to this section shall provide protection against  
103 claims made against chaplains by persons incarcerated in a state correctional facility, a juvenile  
104 *community* correctional center, or a facility operated pursuant to the Corrections Private Management  
105 Act (§ 53.1-261 et seq.) arising out of services provided by the chaplains to such incarcerated persons,  
106 regardless of whether such services were provided on a volunteer basis or for compensation. For the  
107 purposes of this subsection, chaplains shall include only those persons, who, at the time any claim may  
108 arise, were acting pursuant to, and in compliance with, an agreement between the chaplain or an  
109 organization to which the chaplain belongs, and the Department of Corrections, the Department of  
110 Juvenile Justice, or an operator of a facility operated pursuant to the Corrections Private Management  
111 Act.

112 **§ 2.2-3007. Certain employees of the Departments of Corrections and Juvenile Justice.**

113 A. Employees of the Departments of Corrections and Juvenile Justice who work in institutions or  
114 juvenile *community* correctional centers or have client, inmate, or resident contact and who are  
115 terminated on the grounds of client, inmate, or resident abuse, criminal conviction, or as a result of  
116 being placed on probation under the provisions of § 18.2-251, may appeal their termination only through  
117 the Department of Human Resource Management applicable grievance procedures, which shall not  
118 include successive grievance steps or the formal hearing provided in § 2.2-3005.

119 B. If no resolution is reached, the employee may advance the grievance to the circuit court of the  
120 jurisdiction in which the grievance occurred for a de novo hearing on the merits of the termination. In

its discretion, the court may refer the matter to a commissioner in chancery to take such evidence as may be proper and to make a report to the court. Both the grievant and the respondent may call upon witnesses and be represented by legal counsel or other representatives before the court or the commissioner in chancery. Such representatives may examine, cross-examine, question and present evidence on behalf of the grievant or respondent before the court or commissioner in chancery without being in violation of the provisions of § 54.1-3904.

C. A termination shall be upheld unless shown to have been unwarranted by the facts or contrary to law or policy.

**§ 8.01-195.10. Purpose; action by the General Assembly required; definitions.**

A. The purpose of this article is to provide directions and guidelines for the compensation of persons who have been wrongfully incarcerated in the Commonwealth. Compensation for wrongful incarceration is governed by Article IV, Section 14 of the Constitution of Virginia, which prohibits the General Assembly from granting relief in cases in which the courts or other tribunals may have jurisdiction and any individual seeking payment of state funds for wrongful incarceration shall be deemed to have waived all other claims. The payment and receipt of any compensation for wrongful incarceration shall be contingent upon the General Assembly appropriating funds for that purpose. This article shall not provide an entitlement to compensation for persons wrongfully incarcerated or require the General Assembly to appropriate funds for the payment of such compensation. No estate of or personal representative for a decedent shall be entitled to seek a claim for compensation for wrongful incarceration.

B. As used in this article:

"Incarceration" or "incarcerated" means confinement in a local or regional correctional facility, juvenile *community* correctional center, state correctional facility, residential detention center, or facility operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.).

"Wrongful incarceration" or "wrongfully incarcerated" means incarceration for a felony conviction for which (i) the conviction has been vacated pursuant to Chapter 19.2 (§ 19.2-327.2 et seq.) or 19.3 (§ 19.2-327.10 et seq.) of Title 19.2, or the person incarcerated has been granted an absolute pardon for the commission of a crime that he did not commit, (ii) the person incarcerated must have entered a final plea of not guilty, or regardless of the plea, any person sentenced to death, or convicted of a Class 1 felony, a Class 2 felony, or any felony for which the maximum penalty is imprisonment for life, and (iii) the person incarcerated did not by any act or omission on his part intentionally contribute to his conviction for the felony for which he was incarcerated.

**§ 16.1-249. Places of confinement for juveniles.**

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such juvenile may be detained, pending a court hearing, in the following places:

1. An approved foster home or a home otherwise authorized by law to provide such care;
2. A facility operated by a licensed child welfare agency;
3. If a juvenile is alleged to be delinquent, in a detention home or group home approved by the Department;
4. Any other suitable place designated by the court and approved by the Department;
5. To the extent permitted by federal law, a separate juvenile detention facility located upon the site of an adult regional jail facility established by any county, city or any combination thereof constructed after 1994, approved by the Department of Juvenile Justice and certified by the Board of Juvenile Justice for the holding and detention of juveniles.

B. No juvenile shall be detained or confined in any jail or other facility for the detention of adult offenders or persons charged with crime except as provided in subsection D, E, F or G.

C. The official in charge of a jail or other facility for the detention of adult offenders or persons charged with crime shall inform the court immediately when a juvenile who is or appears to be under the age of 18 years is received at the facility, and shall deliver him to the court upon request, or transfer him to a detention facility designated by the court.

D. When a case is transferred to the circuit court in accordance with the provisions of subsection A of § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, or when the district court has certified a charge to the grand jury pursuant to subsection B or C of § 16.1-269.1, the juvenile, if in confinement, shall be placed in a juvenile secure facility, unless the court determines that the juvenile is a threat to the security or safety of the other juveniles detained or the staff of the facility, in which case the court may transfer the juvenile to a jail or other facility for the detention of adults, provided that the facility is approved by the State Board of Corrections for the detention of juveniles.

E. If, in the judgment of the custodian, a juvenile has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine

whether such juvenile should be transferred to another juvenile facility or, if the child is 14 years of age or older, a jail or other facility for the detention of adults, provided that (i) the detention is in a room or ward entirely separate and removed from adults, (ii) adequate supervision is provided, and (iii) the facility is approved by the State Board of Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is 14 years of age or older, a jail or other facility for the detention of adults pursuant to the limitations of clauses (i), (ii) and (iii) of subsection E for a period not to exceed six hours prior to a court hearing and an additional six hours after the court hearing unless a longer period is ordered pursuant to subsection E.

G. If a juvenile 14 years of age or older is charged with an offense which, if committed by an adult, would be a felony or Class 1 misdemeanor, and the judge or intake officer determines that secure detention is needed for the safety of the juvenile or the community, such juvenile may be detained for a period not to exceed six hours prior to a court hearing and six hours after the court hearing in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the juvenile to a juvenile facility. Such room or ward may be located in a building which also contains a jail or other facility for the detention of adults, provided that (i) such room or ward is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to Article 7 (§ 16.1-269.1 et seq.), (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to prescribe minimum standards for temporary lock-up rooms and wards based on the requirements set out in this subsection.

G1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours, provided that the juvenile is entirely separate and removed from detained adults, or (ii) in a nonsecure area, provided that constant supervision is provided.

H. If a judge, intake officer or magistrate orders the predispositional detention of persons 18 years of age or older, such detention shall be in an adult facility; however, if the predispositional detention is ordered for a violation of the terms and conditions of release from a juvenile *community* correctional center, the judge, intake officer or magistrate may order such detention be in a juvenile facility.

I. The Departments of Corrections, Juvenile Justice and Criminal Justice Services shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

**§ 16.1-269.1. Trial in circuit court; preliminary hearing; direct indictment; remand.**

A. Except as provided in subsections B and C, if a juvenile 14 years of age or older at the time of an alleged offense is charged with an offense which would be a felony if committed by an adult, the court shall, on motion of the attorney for the Commonwealth and prior to a hearing on the merits, hold a transfer hearing and may retain jurisdiction or transfer such juvenile for proper criminal proceedings to the appropriate circuit court having criminal jurisdiction of such offenses if committed by an adult. Any transfer to the appropriate circuit court shall be subject to the following conditions:

1. Notice as prescribed in §§ 16.1-263 and 16.1-264 shall be given to the juvenile and his parent, guardian, legal custodian or other person standing in loco parentis; or attorney;

2. The juvenile court finds that probable cause exists to believe that the juvenile committed the delinquent act as alleged or a lesser included delinquent act which would be a felony if committed by an adult;

3. The juvenile is competent to stand trial. The juvenile is presumed to be competent and the burden is on the party alleging the juvenile is not competent to rebut the presumption by a preponderance of the evidence; and

4. The court finds by a preponderance of the evidence that the juvenile is not a proper person to remain within the jurisdiction of the juvenile court. In determining whether a juvenile is a proper person to remain within the jurisdiction of the juvenile court, the court shall consider, but not be limited to, the following factors:

a. The juvenile's age;

b. The seriousness and number of alleged offenses, including (i) whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the alleged offense was against persons or property, with greater weight being given to offenses against persons, especially if death or bodily injury resulted; (iii) whether the maximum punishment for such an offense is greater than 20 years confinement if committed by an adult; (iv) whether the alleged offense involved the use of a firearm or other dangerous weapon by brandishing, threatening, displaying or otherwise employing such weapon; and (v) the nature of the juvenile's participation in the alleged offense;

c. Whether the juvenile can be retained in the juvenile justice system long enough for effective treatment and rehabilitation;

d. The appropriateness and availability of the services and dispositional alternatives in both the

criminal justice and juvenile justice systems for dealing with the juvenile's problems;

e. The record and previous history of the juvenile in this or other jurisdictions, including (i) the number and nature of previous contacts with juvenile or circuit courts, (ii) the number and nature of prior periods of probation, (iii) the number and nature of prior commitments to juvenile *community* correctional centers, (iv) the number and nature of previous residential and community-based treatments, (v) whether previous adjudications and commitments were for delinquent acts that involved the infliction of serious bodily injury, and (vi) whether the alleged offense is part of a repetitive pattern of similar adjudicated offenses;

f. Whether the juvenile has previously absconded from the legal custody of a juvenile correctional entity in this or any other jurisdiction;

g. The extent, if any, of the juvenile's degree of intellectual disability or mental illness;

h. The juvenile's school record and education;

i. The juvenile's mental and emotional maturity; and

j. The juvenile's physical condition and physical maturity.

No transfer decision shall be precluded or reversed on the grounds that the court failed to consider any of the factors specified in subdivision 4.

B. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or older is charged with murder in violation of § 18.2-31, 18.2-32 or 18.2-40, or aggravated malicious wounding in violation of § 18.2-51.2.

C. The juvenile court shall conduct a preliminary hearing whenever a juvenile 14 years of age or older is charged with murder in violation of § 18.2-33; felonious injury by mob in violation of § 18.2-41; abduction in violation of § 18.2-48; malicious wounding in violation of § 18.2-51; malicious wounding of a law-enforcement officer in violation of § 18.2-51.1; felonious poisoning in violation of § 18.2-54.1; adulteration of products in violation of § 18.2-54.2; robbery in violation of § 18.2-58 or carjacking in violation of § 18.2-58.1; rape in violation of § 18.2-61; forcible sodomy in violation of § 18.2-67.1; object sexual penetration in violation of § 18.2-67.2; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute a controlled substance or an imitation controlled substance in violation of § 18.2-248 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248 provided the adjudications occurred after the juvenile was at least 14 years of age; manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute methamphetamine in violation of § 18.2-248.03 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.03 provided the adjudications occurred after the juvenile was at least 14 years of age; or felonious manufacturing, selling, giving, distributing, or possessing with intent to manufacture, sell, give, or distribute anabolic steroids in violation of § 18.2-248.5 if the juvenile has been previously adjudicated delinquent on two or more occasions of violating § 18.2-248.5 provided the adjudications occurred after the juvenile was at least 14 years of age, provided the attorney for the Commonwealth gives written notice of his intent to proceed pursuant to this subsection. The notice shall be filed with the court and mailed or delivered to counsel for the juvenile or, if the juvenile is not then represented by counsel, to the juvenile and a parent, guardian or other person standing in loco parentis with respect to the juvenile at least seven days prior to the preliminary hearing. If the attorney for the Commonwealth elects not to give such notice, or if he elects to withdraw the notice prior to certification of the charge to the grand jury, he may proceed as provided in subsection A.

D. Upon a finding of probable cause pursuant to a preliminary hearing under subsection B or C, the juvenile court shall certify the charge, and all ancillary charges, to the grand jury. Such certification shall divest the juvenile court of jurisdiction as to the charge and any ancillary charges. Nothing in this subsection shall divest the juvenile court of jurisdiction over any matters unrelated to such charge and ancillary charges which may otherwise be properly within the jurisdiction of the juvenile court.

If the court does not find probable cause to believe that the juvenile has committed the violent juvenile felony as charged in the petition or warrant or if the petition or warrant is terminated by dismissal in the juvenile court, the attorney for the Commonwealth may seek a direct indictment in the circuit court. If the petition or warrant is terminated by nolle prosequi in the juvenile court, the attorney for the Commonwealth may seek an indictment only after a preliminary hearing in juvenile court.

If the court finds that the juvenile was not 14 years of age or older at the time of the alleged commission of the offense or that the conditions specified in subdivision A 1, 2, or 3 have not been met, the case shall proceed as otherwise provided for by law.

E. An indictment in the circuit court cures any error or defect in any proceeding held in the juvenile court except with respect to the juvenile's age. If an indictment is terminated by nolle prosequi, the Commonwealth may reinstate the proceeding by seeking a subsequent indictment.

#### **§ 16.1-285.1. Commitment of serious offenders.**

A. In the case of a juvenile fourteen years of age or older who has been found guilty of an offense

305 which would be a felony if committed by an adult, and either (i) the juvenile is on parole for an offense  
306 which would be a felony if committed by an adult, (ii) the juvenile was committed to the state for an  
307 offense which would be a felony if committed by an adult within the immediately preceding twelve  
308 months, (iii) the felony offense is punishable by a term of confinement of greater than twenty years if  
309 the felony was committed by an adult, or (iv) the juvenile has been previously adjudicated delinquent  
310 for an offense which if committed by an adult would be a felony punishable by a term of confinement  
311 of twenty years or more, and the circuit court, or the juvenile or family court, as the case may be, finds  
312 that commitment under this section is necessary to meet the rehabilitative needs of the juvenile and  
313 would serve the best interests of the community, then the court may order the juvenile committed to the  
314 Department of Juvenile Justice for placement in a juvenile *community* correctional center for the period  
315 of time prescribed pursuant to this section.

316 Alternatively, in order to determine if a juvenile, transferred from a juvenile and domestic relations  
317 district court to a circuit court pursuant to § 16.1-269.1, appropriately qualifies for commitment pursuant  
318 to this section, notwithstanding the inapplicability of the qualification criteria set forth in clauses (i)  
319 through (iv), the circuit court may consider the commitment criteria set forth in subdivisions 1, 2, and 3  
320 of subsection B as well as other components of the juvenile's life history and, if upon such consideration  
321 in the opinion of the court the needs of the juvenile and the interests of the community would clearly  
322 best be served by commitment hereunder, may so commit the juvenile.

323 B. Prior to committing any juvenile pursuant to this section, the court shall consider:

324 1. The juvenile's age;

325 2. The seriousness and number of the present offenses, including (i) whether the offense was  
326 committed in an aggressive, violent, premeditated, or willful manner; (ii) whether the offense was  
327 against persons or property, with greater weight being given to offenses against persons, especially if  
328 death or injury resulted; (iii) whether the offense involved the use of a firearm or other dangerous  
329 weapon by brandishing, displaying, threatening with or otherwise employing such weapon; and (iv) the  
330 nature of the juvenile's participation in the alleged offense;

331 3. The record and previous history of the juvenile in this or any other jurisdiction, including (i) the  
332 number and nature of previous contacts with courts, (ii) the number and nature of prior periods of  
333 probation, (iii) the number and nature of prior commitments to juvenile *community* correctional centers,  
334 (iv) the number and nature of previous residential and community-based treatments, (v) whether previous  
335 adjudications and commitments were for delinquent acts that involved the infliction of serious bodily  
336 injury, and (vi) whether the offense is part of a repetitive pattern of similar adjudicated offenses; and

337 4. The Department's estimated length of stay.

338 Such commitment order must be supported by a determination that the interests of the juvenile and  
339 community require that the juvenile be placed under legal restraint or discipline and that the juvenile is  
340 not a proper person to receive treatment or rehabilitation through other juvenile programs or facilities.

341 C. In ordering commitment pursuant to this section, the court shall specify a period of commitment  
342 not to exceed seven years or the juvenile's twenty-first birthday, whichever shall occur first. The court  
343 may also order a period of determinate or indeterminate parole supervision to follow the commitment  
344 but the total period of commitment and parole supervision shall not exceed seven years or the juvenile's  
345 twenty-first birthday, whichever occurs first.

346 D. Upon receipt of a juvenile committed under the provisions of this section, the Department shall  
347 evaluate the juvenile for the purpose of considering placement of the juvenile in an appropriate juvenile  
348 *community* correctional center for the time prescribed by the committing court. Such a placement  
349 decision shall be made based on the availability of treatment programs at the facility; the level of  
350 security at the facility; the offense for which the juvenile has been committed; and the welfare, age and  
351 gender of the juvenile.

352 E. The court which commits the juvenile to the Department under this section shall have continuing  
353 jurisdiction over the juvenile throughout his commitment. The continuing jurisdiction of the court shall  
354 not prevent the Department from removing the juvenile from a juvenile *community* correctional center  
355 without prior court approval for the sole purposes of routine or emergency medical treatment, routine  
356 educational services, or family emergencies.

357 F. Any juvenile committed under the provisions of this section shall not be released at a time earlier  
358 than that specified by the court in its dispositional order except as provided for in § 16.1-285.2. The  
359 Department may petition the committing court for a hearing as provided for in § 16.1-285.2 for an  
360 earlier release of the juvenile when good cause exists for an earlier release. In addition, the Department  
361 shall petition the committing court for a determination as to the continued commitment of each juvenile  
362 sentenced under this section at least sixty days prior to the second anniversary of the juvenile's date of  
363 commitment and sixty days prior to each annual anniversary thereafter.

364 **§ 16.1-285.2. Release and review hearing for serious offender.**

365 A. Upon receipt of a petition of the Department of Juvenile Justice for a hearing concerning a  
366 juvenile committed under § 16.1-285.1, the court shall schedule a hearing within thirty days and shall

367 appoint counsel for the juvenile pursuant to § 16.1-266. The court shall provide a copy of the petition,  
 368 the progress report required by this section, and notice of the time and place of the hearing to (i) the  
 369 juvenile, (ii) the juvenile's parent, legal guardian, or person standing in loco parentis, (iii) the juvenile's  
 370 guardian ad litem, if any, (iv) the juvenile's legal counsel, and (v) the attorney for the Commonwealth  
 371 who prosecuted the juvenile during the delinquency proceeding. The attorney for the Commonwealth  
 372 shall provide notice of the time and place of the hearing by first-class mail to the last known address of  
 373 any victim of the offense for which the juvenile was committed if such victim has submitted a written  
 374 request for notification to the attorney for the Commonwealth.

375 B. The petition shall be filed in the committing court and shall be accompanied by a progress report  
 376 from the Department. This report shall describe (i) the facility and living arrangement provided for the  
 377 juvenile by the Department, (ii) the services and treatment programs afforded the juvenile, (iii) the  
 378 juvenile's progress toward treatment goals and objectives, which shall include a summary of his  
 379 educational progress, (iv) the juvenile's potential for danger to either himself or the community, and (v)  
 380 a comprehensive aftercare plan for the juvenile.

381 B1. The appearance of the juvenile before the court may be by (i) personal appearance before the  
 382 judge, or (ii) use of two-way electronic video and audio communication. If two-way electronic video  
 383 and audio communication is used, a judge may exercise all powers conferred by law and all  
 384 communications and proceedings shall be conducted in the same manner as if the appearance were in  
 385 person, and any documents filed may be transmitted by facsimile process. A facsimile may be served or  
 386 executed by the officer or person to whom sent, and returned in the same manner, and with the same  
 387 force, effect, authority, and liability as an original document. All signatures thereon shall be treated as  
 388 original signatures. Any two-way electronic video and audio communication system used for an  
 389 appearance shall meet the standards as set forth in subsection B of § 19.2-3.1.

390 C. At the hearing the court shall consider the progress report. The court may also consider additional  
 391 evidence from (i) probation officers, the juvenile *community* correctional center, treatment professionals,  
 392 and the court service unit; (ii) the juvenile, his legal counsel, parent, guardian or family member; or (iii)  
 393 other sources the court deems relevant. The hearing and all records relating thereto shall be governed by  
 394 the confidentiality provisions of Article 12 (§ 16.1-299 et seq.) of this chapter.

395 D. At the conclusion of the hearing, the court shall order (i) continued commitment of the juvenile to  
 396 the Department for completion of the original determinate period of commitment or such lesser time as  
 397 the court may order or (ii) release of the juvenile under such terms and conditions as the court may  
 398 prescribe. In making a determination under this section, the court shall consider (i) the experiences and  
 399 character of the juvenile before and after commitment, (ii) the nature of the offenses that the juvenile  
 400 was found to have committed, (iii) the manner in which the offenses were committed, (iv) the protection  
 401 of the community, (v) the recommendations of the Department, and (vi) any other factors the court  
 402 deems relevant. The order of the court shall be final and not subject to appeal.

403 E. In the case of a juvenile convicted as an adult and committed as a serious offender under  
 404 subdivision A 1 of § 16.1-272, at the conclusion of the review hearing, the circuit court shall order (i)  
 405 the juvenile to begin serving any adult sentence in whole or in part that may include any remaining part  
 406 of the original determinate period of commitment, or (ii) the suspension of the unserved portion of the  
 407 adult sentence in whole or in part based upon the juvenile's successful completion of the commitment as  
 408 a serious offender, or (iii) the continued commitment of the juvenile to the Department for completion  
 409 of the original determinate period of commitment or such lesser time as the court may order, or (iv) the  
 410 release of the juvenile under such terms and conditions as the court may prescribe.

#### 411 § 16.1-309.4. Statewide plan for juvenile services.

412 It shall be the duty of the Department of Juvenile Justice to devise, develop and promulgate a  
 413 statewide plan for the establishment and maintenance of a range of institutional and community-based,  
 414 diversion, predispositional and postdispositional services to be reasonably accessible to each court. The  
 415 Department shall be responsible for the collection and dissemination of the required court data necessary  
 416 for the development of the plan. The plan shall utilize the information provided by local plans submitted  
 417 under § 16.1-309.3. The plan shall be submitted to the Board on or before July 1 in odd-numbered  
 418 years. The plan shall include a biennial forecast with appropriate annual updates as may be required of  
 419 future juvenile *community* correctional center and detention home needs.

#### 420 § 18.2-48.1. Abduction by prisoners or committed persons; penalty.

421 Any person confined in a state, local, or community correctional facility or committed to the  
 422 Department of Juvenile Justice in any juvenile *community* correctional center, or in the custody of an  
 423 employee thereof, or who has escaped from any such facility or from any person in charge of such  
 424 prisoner or committed person, who abducts or takes any person hostage is guilty of a Class 3 felony.

#### 425 § 18.2-431.1. Illegal conveyance or possession of cellular telephone or other wireless 426 telecommunications device by prisoner or committed person; penalty.

427 A. It is unlawful for any person without authorization to provide or cause to be provided a cellular

428 telephone or other wireless telecommunications device to an incarcerated prisoner or person committed  
429 to the Department of Juvenile Justice in any juvenile *community* correctional center.

430 B. It is unlawful for an incarcerated prisoner or person committed to the Department of Juvenile  
431 Justice in any juvenile *community* correctional center without authorization to possess a cellular  
432 telephone or other wireless telecommunications device during the period of his incarceration.

433 C. Any violation of this section is a Class 6 felony.

434 **§ 18.2-473. Persons aiding escape of prisoner or child.**

435 When a person is lawfully detained as a prisoner in any jail or prison or held in custody, or when a  
436 child is placed in a local juvenile detention home, or committed to the Department of Juvenile Justice in  
437 any juvenile *community* correctional center, or Reception and Diagnostic Center for Children or held in  
438 custody, if any person: (1) conveys anything into the jail, prison, juvenile detention home, juvenile  
439 *community* correctional center or Reception and Diagnostic Center for Children with intent to facilitate a  
440 person's escape therefrom, (2) in any way aids such prisoner or child to escape, or in an attempt to  
441 escape, from such jail, prison, juvenile detention home, juvenile *community* correctional center,  
442 Reception and Diagnostic Center for Children or custody, or (3) forcibly takes, or attempts to take him  
443 therefrom, such person, if the taking or escape is effected, shall, if the prisoner or child was detained on  
444 conviction, commitment or charge of felony, be confined in a state correctional facility not less than one  
445 year nor more than five years. If the same is not effected, or if the prisoner or child was not detained on  
446 such conviction, commitment or charge, he shall be guilty of a Class 1 misdemeanor.

447 **§ 18.2-473.1. Communication with prisoners or committed person; penalty.**

448 It shall be unlawful for any person outside of any state or local correctional facility or any juvenile  
449 *community* correctional center, other than the jailers or custodial officers in charge of the prisoners or in  
450 charge of the persons committed to the Department of Juvenile Justice, to communicate without  
451 authority by word or sign with the intent to disrupt institutional operations with any prisoner confined  
452 within a state or local correctional facility or with any person committed to the Department of Juvenile  
453 Justice in any juvenile *community* correctional center. Any person violating this section is guilty of a  
454 Class 4 misdemeanor.

455 **§ 18.2-474. Delivery of articles to prisoners or committed person.**

456 No person shall willfully in any manner deliver, or attempt to deliver, to any prisoner confined under  
457 authority of the Commonwealth of Virginia, or of any political subdivision thereof, or to any person  
458 committed to the Department of Juvenile Justice in any juvenile *community* correctional center, any  
459 article of any nature whatsoever, without first securing the permission of the person in whose charge  
460 such prisoner or committed person is, and who may in his discretion grant or refuse permission. Any  
461 person violating this section is guilty of a Class 1 misdemeanor.

462 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

463 **§ 18.2-474.1. Delivery of drugs, firearms, explosives, etc., to prisoners or committed persons.**

464 Notwithstanding the provisions of § 18.2-474, any person who shall willfully in any manner deliver,  
465 attempt to deliver, or conspire with another to deliver to any prisoner confined under authority of the  
466 Commonwealth of Virginia, or of any political subdivision thereof, or to any person committed to the  
467 Department of Juvenile Justice in any juvenile *community* correctional center, any drug which is a  
468 controlled substance regulated by the Drug Control Act in Chapter 34 (§ 54.1-3400 et seq.) of Title 54.1  
469 or marijuana is guilty of a Class 5 felony. Any person who shall willfully in any manner so deliver or  
470 attempt to deliver or conspire to deliver to any such prisoner or confined or committed person, firearms,  
471 ammunitions, or explosives of any nature is guilty of a Class 3 felony.

472 Nothing herein contained shall be construed to repeal or amend § 18.2-473.

473 **§ 18.2-477.2. Punishment for certain offenses committed within a secure juvenile facility or**  
474 **detention home.**

475 It shall be unlawful for a person committed to the Department of Juvenile Justice in any juvenile  
476 *community* correctional center or detained in a secure juvenile facility or detention home to commit any  
477 of the offenses enumerated in § 53.1-203. A violation of this section shall be punishable as a Class 6  
478 felony, except that a violation of subdivision 6 of § 53.1-203 is a Class 5 felony.

479 **§ 22.1-209.1:2. Regional alternative education programs for certain students.**

480 A. With such funds as may be appropriated for this purpose, the Board of Education shall establish a  
481 program consisting of regional alternative education options for elementary, middle, and high school  
482 students in compliance with subdivision D 7 of § 22.1-253.13:1 who (i) have committed an offense in  
483 violation of school board policies relating to weapons, alcohol or drugs, or intentional injury to another  
484 person, or against whom a petition or warrant has been filed alleging such acts or school board charges  
485 alleging such policy violations are pending; (ii) have been expelled from school attendance or have  
486 received one suspension for an entire semester, or have received two or more long-term suspensions  
487 within one school year; or (iii) have been released from a juvenile *community* correctional center and  
488 have been identified by the Superintendent of the Department of Juvenile Justice's Division of Education  
489 and the relevant division superintendent as requiring a regional alternative education program. Based on



available space, a student may also be administratively assigned to a regional alternative education program either at the request of the parent and with the consent of the division superintendent or by the division superintendent after written notice to the student and his parent. Such notice of the opportunity for the student and/or his parent to participate in a hearing conducted by the division superintendent or his designee regarding such placement shall be issued and the assignment shall be final unless altered by the school board, upon timely written petition, in accordance with regulations of the school board, by the student or his parent, for a review of the record by the school board. However, no child shall be assigned to any regional alternative education program described in this section for more than one school year without an annual assessment of the placement to determine the appropriateness of transitioning the child into the school division's regular program.

B. Applications for grants shall include the following components:

1. An agreement executed by two or more school divisions and approval of their respective governing bodies to offer a regional alternative education option as provided in subsection A, and a plan for the apportionment of responsibilities for the administration, management, and support of the program, including, but not limited to, the facilities and location for the program, daily operation and oversight, staffing, instructional materials and resources, transportation, funding and in-kind services, and the program of instruction.

2. A procedure for obtaining the participation in or support for the program, as may be determined, of the parents, guardian or other person having charge or control of a child placed in the program.

3. An interagency agreement for cooperation executed by the local departments of health and social services or welfare; the juvenile and domestic relations district court; law-enforcement agencies; institutions of higher education and other postsecondary training programs; professional and community organizations; the business and religious communities; dropout prevention and substance abuse prevention programs; community services boards located in the applicants' respective jurisdictions; and the Department of Juvenile Justice.

4. A curriculum developed for intensive, accelerated instruction designed to establish high standards and academic achievement for participating students.

5. An emphasis on building self-esteem and the promotion of personal and social responsibility.

6. A low pupil/teacher ratio to promote a high level of interaction between the students and the teacher.

7. An extended day program, where appropriate, to facilitate remediation; tutoring; counseling; organized, age-appropriate, developmental education for elementary and middle school children; and opportunities that enhance acculturation and permit students to improve their social and interpersonal relationship skills.

8. Community outreach to build strong school, business, and community partnerships, and to promote parental involvement in the educational process of participating children.

9. Specific, measurable goals and objectives and an evaluation component to determine the program's effectiveness in reducing acts of crime and violence by students, the dropout rate, the number of youth committed to juvenile *community* correctional centers, and recidivism; and in increasing the academic achievement levels and rehabilitative success of participating students, admission to institutions of higher education and other postsecondary education and training programs, and improving staff retention rates.

10. The number of children who may be assigned to the regional alternative education program during the school year.

11. A plan for transitioning the enrolled students into the relevant school division's regular program.

12. A current program of staff development and training.

C. Beginning with the first year of program implementation, the Department of Education shall be entitled to deduct annually from the locality's share for the education of its students a sum equal to the actual local expenditure per pupil for the support of those students placed by the relevant school division in any such program. The amount of the actual transfers shall be based on data accumulated during the prior school year.

D. A school board shall require written notification to the pupil's parent, guardian, or other person having charge or control, when a pupil commits an offense in violation of school board policies, which school officials determine was committed without the willful intent to violate such policies, or when the offense did not endanger the health and safety of the individual or other persons, of the nature of the offense no later than two school days following its occurrence. A school board shall require the principal of the school where the child is in attendance or other appropriate school personnel to develop appropriate measures, in conjunction with the pupil's parent or guardian, for correcting such behavior.

E. For the purposes of this section, "regional alternative education program" means a program supported and implemented by two or more school divisions which are either geographically contiguous or have a community of interest.

F. For the purposes of this section, "one school year" means no more than 180 teaching days.

**§ 22.1-289. Transfer and management of scholastic records; disclosure of information in court notices; penalty.**

A. As used in this section:

"Scholastic record" means those records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. These include, but are not limited to, documentation pertinent to the educational growth and development of students as they progress through school, student disciplinary records, achievement and test data, cumulative health records, reports of assessments for eligibility for special education services, and Individualized Education Programs. Such records may be recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

A notice of adjudication or conviction received by a superintendent relating to an incident which did not occur on school property or during a school-sponsored activity shall not be a part of a student's scholastic record.

The term "scholastic record" also shall not include records of instructional, supervisory, administrative, and ancillary educational personnel that are kept in the sole possession of the maker of the record and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

B. Whenever a pupil transfers from one school division to another, the scholastic record or a copy of the scholastic record shall be transferred to the school division to which the pupil transfers upon request from such school division. Permission of the parent, guardian, or other person having control or charge of the student shall not be required for transfer of such scholastic record to another school or school division within or outside the Commonwealth.

C. Any notice of disposition received pursuant to § 16.1-305.1 shall not be retained after the student has been awarded a diploma or a certificate as provided in § 22.1-253.13:4.

D. Every student's scholastic record shall be available to the student and his parent, guardian, or other person having control or charge of the student for inspection during the regular school day. Permission of the parent, guardian, or other person having control or charge of the student, or of a student who is 18 years of age or older, shall not be required for transfer of such scholastic record to another school or school division within or without this Commonwealth.

Consistent with federal law and regulation, each school shall annually notify parents of students currently enrolled and in attendance of their rights under the federal Family Educational Rights and Privacy Act (20 U.S.C. § 1232g) and related regulations.

A school responding to a request for the transfer of the scholastic record from another school division need not provide written notice of the transfer of the record, including the identity of the requester, to the parent, guardian, or other person having control or charge of the student, or to a student who is 18 years of age or older, if the school has previously included in the annual notice required by this subsection a statement that it forwards such records to such requesting school divisions.

E. Whenever the division superintendent is notified by the Department of Juvenile Justice, pursuant to § 16.1-287, or by a school division employee responsible for education programs in a local jail or a detention center, that a pupil who last attended a school within the school division is a pupil in a school of a juvenile *community* correctional center of the Department of Juvenile Justice, or a pupil in an educational program in a local jail or detention center, the school division superintendent or his designee shall transfer the scholastic record of such pupil to the designated juvenile *community* correctional center or local jail or a detention center, as the case may be, within five work days. The Department of Juvenile Justice shall transfer the scholastic record of a student who has been discharged from a juvenile *community* correctional center to the relevant school division within five work days of the student's discharge.

The Board of Education shall adopt regulations concerning the transfer and management of scholastic records from one school division to another, to the learning centers of the Department of Juvenile Justice, and to educational programs in local jails and detention centers.

Upon receiving notice of a foster care placement of a student across jurisdictional lines, the sending school division and the receiving school division, as such school divisions are defined in subsection D of § 22.1-3.4, shall expedite the transfer of the scholastic record of the student.

F. The division superintendent or his designee shall notify the local police or sheriff's department for investigation as a possible missing child of any enrolled pupil whose scholastic record he is unable to obtain within 60 days or sooner, if the division superintendent or his designee has reason to suspect that the pupil is a missing child.

G. Superintendents and their designees shall be immune from any civil or criminal liability in connection with any notice to a police or sheriff's department of a pupil lacking a scholastic record or failure to give such notice as required by this section.

H. Except as provided in §§ 16.1-309 and 22.1-287 and this section, a superintendent or his designee, or other school personnel who unlawfully discloses information obtained pursuant to § 16.1-305.1 shall

be guilty of a Class 3 misdemeanor.

**§ 29.1-317. Special fishing permits for certain juveniles.**

A. Upon application from the superintendent of any juvenile *community* correctional center maintained and operated by the Department of Juvenile Justice, the Director may issue a permit to allow the residents of such juvenile *community* correctional center to fish under supervision without licenses in public waters open to fishing. The permits shall not be issued for use in designated waters stocked with trout or in waters where a daily fishing fee has been imposed pursuant to § 29.1-318.

B. The application for the permit shall state the name and description of the group, the period of time during which it will be used, the general area in which it will be used, and the name of the person who will be responsible for the group.

**§ 66-3. Powers of the Director.**

A. The Director of the Department shall have the following general powers:

1. To employ such personnel as may be required to carry out the purposes of this title.

2. To make and enter into all contracts and agreements necessary or incidental to the performance of his duties and the execution of his powers under this title, including, but not limited to, contracts and agreements with the United States, other states, and agencies and governmental subdivisions of the Commonwealth.

3. With the prior approval of the Governor, to enter into agreements with a public or private entity to operate a work program for children committed to the Department.

4. With the prior approval of the Governor, to acquire real property, by purchase or gift, needed for new or existing state juvenile correctional facilities and for administrative and other facilities necessary to the operations of the Department, pursuant to regulations promulgated by the Board to ensure adequate public notice and local hearing.

5. To establish and maintain schools of the appropriate grades, levels, and types in the institutions for persons committed to juvenile *community* correctional centers.

6. To enter into such agreements with private entities, nonprofit civic organizations, school divisions, and public and private two-year and four-year institutions of higher education as it may deem necessary to provide age-appropriate educational programs and training, including career and technical education; career development opportunities; public service projects; restricted Internet access to online courses of institutions of higher education and approved or accredited online secondary education or adult education and literacy programs leading to a diploma or achieving a passing score on a high school equivalency examination approved by the Board of Education; access to postsecondary education that includes college credit, certification through an accredited vocational training program, or other accredited continuing education program using videoconferencing technology; and other learning experiences in the furtherance of its duties and responsibilities under this chapter for persons committed to the institutions comprising the Department.

7. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of detention homes not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General.

8. To do all acts necessary or convenient to carry out the purposes of this title.

B. The Director shall comply with and require all school facilities within the Department to comply with applicable regulations and statutes, both state and federal.

**§ 66-13. Authority of Department as to juveniles committed to it; establishment of facilities; arrangements for temporary care.**

A. The Department is authorized and empowered to receive juveniles committed to it by the courts of the Commonwealth. The Department shall establish, staff and maintain facilities for the rehabilitation, education, training and confinement of such juveniles. The Department may make arrangements with satisfactory persons, institutions or agencies, or with cities or counties maintaining places of detention for juveniles, for the temporary care of such juveniles. *Any juvenile community correctional center established after July 1, 2020, shall (i) be located within a locality in which at least five percent of all juvenile commitments occur statewide, using an average of the rate of commitments of three consecutive years, and (ii) be designed to confine 30 juveniles or fewer.*

B. In accordance with the Juvenile Corrections Private Management Act, Chapter 2.1 (§ 66-25.3 et

seq.), the Department may establish, or contract with private entities, political subdivisions or commissions to establish, juvenile boot camps. The Board shall prescribe standards for the development, implementation and operation of the boot camps with highly structured components including, but not limited to, military style drill and ceremony, physical labor, education and rigid discipline and no less than six months of intensive aftercare. The Department of Juvenile Justice's Division of Education shall establish, staff, and maintain educational programs for such juveniles in accordance with § 66-13. A contract to expend state funds to establish a facility for a juvenile boot camp shall not be executed by the Department unless an appropriation has been expressly approved as is otherwise provided by law.

C. The Department may by mutual agreement with a locality or localities and, pursuant to standards promulgated pursuant to § 16.1-309.9, establish detention homes for use by a locality or localities for pre-trial and post-dispositional detention pursuant to §§ 16.1-248.1 and 16.1-284.1. The Department may collect by mutual agreement with a locality or localities and from any locality of this Commonwealth from which a juvenile is placed in such a detention home, the reasonable cost of maintaining such juvenile in such facility and a portion of the cost of construction of such facility. Such agreements shall be subject to approval by the General Assembly in the general appropriation act.

D. The Department shall collect data pertaining to the demographic characteristics of juveniles incarcerated in state juvenile correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter.

**§ 66-13.1. Division of Education; employment of Superintendent; powers and duties.**

A. To assist in the performance of the duties imposed by § 66-13 the Department shall develop and maintain a Division of Education (Division), which shall be composed of all the educational facilities of all institutions operated by the Department. The Division shall be designated as a local education agency (LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.

B. The Department shall employ a Superintendent of the Division, who shall meet the minimum standards for division superintendents set by the Board of Education. The Superintendent shall supervise the administration of the Division. The Department shall employ teachers and place them in appropriate schools. Other powers and duties of the Superintendent shall be fixed by the Board of Education in accordance with law.

C. When the Department employs a teacher licensed by the Board of Education to provide instruction in the schools of the juvenile *community* correctional centers, the Department of Human Resource Management shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

**§ 66-18. Examination and placing of such children.**

The Department shall make a careful physical and mental examination of every child committed to it by the courts, investigate the personal and family history of the child and his environment, and place such children at ~~such facilities as are available~~ *the juvenile community correctional center located closest to their primary residence and within one hour of such residence via motor vehicle and within one and one-half hours of such residence via public transportation. If such placement is not available, the Department shall use an alternative placement that is closest to the juvenile's primary residence, such as a local juvenile detention center.* Any children committed to the Department and afterwards found to be eligible for commitment by proper proceedings to any state hospital or admission to a training center for individuals with intellectual disability shall take precedence as to admission over all others and shall in all cases be received into the state hospital or training center within 45 days.

**§ 66-25.1:1. Juvenile academic and career training.**

The Director or his designee shall assess, in accordance with criteria established pursuant to § 66-25.1:3, whether a juvenile committed to the Department is an appropriate candidate for participation in a work release program, apprenticeship program, job enterprise program, or any other work experience opportunity located at or through the juvenile *community* correctional center where the juvenile is placed.

**§ 66-25.1:3. Extending limits of confinement of state wards for work and educational programs; disposition of wages; penalties for violations.**

A. The Director is authorized to establish work release programs, subject to such rules and regulations as the Board may prescribe, whereby (i) a juvenile who is proficient in any trade or occupation and who meets the work release criteria established by the Director, may be approved for employment by private individuals, corporations, or state agencies at places of business, or (ii) a juvenile who the Director is satisfied meets the work release criteria and is capable of receiving substantial benefit from educational and other related community activity programs that are not available within a juvenile *community* correctional center may attend such programs outside of the juvenile correctional facility.

B. The Director may contract with the superintendent of a local detention facility or home for the temporary placement of a committed juvenile who is deemed appropriate for participation in the programs or services provided by or through a certified post-dispositional program in that local detention facility or home. A juvenile who the Director is satisfied meets the work release criteria and is capable of receiving substantial benefit from educational programs, employment or other related community activity programs available at or through the local detention facility or home is eligible for placement in such local detention facility or home.

C. The compensation for such employment shall be arranged by the Director and shall be the same as that of regular employees in similar occupations. Any wages earned shall be paid to the Director. The Director shall, in accordance with regulations promulgated by the Board, deduct from such wages, in the following order of priority, an amount to:

1. Meet the obligation of any judicial or administrative order to provide support, and such funds shall be disbursed according to the terms of such order;

2. Pay any fines, restitution, or costs as ordered by the court; and

3. Pay travel and other such expenses made necessary by his work release employment or participation in an educational or rehabilitative program.

The balance shall be credited to the juvenile's account or sent to his family in an amount the juvenile chooses.

D. Any juvenile who has been placed in any of the programs authorized herein shall, while outside the juvenile *community* correctional center or juvenile detention facility to which he is assigned, be deemed to be in custody whether or not he is under the supervision of a juvenile correctional officer. If the juvenile, without proper authority or without just cause, leaves the area in which he has been directed to work or to attend educational or community activity programs, or the vehicle or route involved in his traveling to or from such place or program, he may be found guilty of escape as provided for in § 18.2-477 as though he had left the secure facility as defined in § 16.1-228; or, if there are mitigating circumstances or the culpability of the juvenile is minimal, he may be found guilty of a Class 2 misdemeanor.

E. The Director and any superintendent or other administrative head of any local detention facility are authorized to enter into agreements whereby persons committed to the Department, whether such persons are housed in a juvenile *community* correctional center or a local detention facility, and who meet the Department's standards for such release, may participate in local work release programs or in educational or other rehabilitative programs operating pursuant to this section. Any person so placed shall be governed by the rules and regulations applicable to local work release programs.

F. In the event that the juvenile is committed to the Department as a serious offender pursuant to § 16.1-285.1, the juvenile shall not be approved for placement in a work release program located outside of the juvenile correctional facility without written approval of the committing court.

**§ 66-25.2:1. Director; notice to school superintendent prior to release of certain offenders.**

The Director or designee shall notify the school division superintendent in the jurisdiction in which the juvenile will be enrolled upon release from a juvenile *community* correctional center if the Director reasonably believes that the juvenile poses any credible danger of serious bodily injury or death to one or more students, school personnel, or others on school property. Such information shall include the nature of the danger. The information provided to a school division superintendent pursuant to this section may be disclosed only as provided in § 16.1-305.2.