

22103496D

HOUSE BILL NO. 1248

Offered January 20, 2022

A *BILL to amend and reenact §§ 16.1-228 and 16.1-278.8 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 16.1-278.9:1, relating to juveniles; adjudication of delinquency.*

 Patron—Watts

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-228 and 16.1-278.8 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 16.1-278.9:1 as follows:

§ 16.1-228. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abused or neglected child" means any child:

1. Whose parents or other person responsible for his care creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon such child a physical or mental injury by other than accidental means, or creates a substantial risk of death, disfigurement or impairment of bodily or mental functions, including, but not limited to, a child who is with his parent or other person responsible for his care either (i) during the manufacture or attempted manufacture of a Schedule I or II controlled substance, or (ii) during the unlawful sale of such substance by that child's parents or other person responsible for his care, where such manufacture, or attempted manufacture or unlawful sale would constitute a felony violation of § 18.2-248;

2. Whose parents or other person responsible for his care neglects or refuses to provide care necessary for his health; however, no child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall for that reason alone be considered to be an abused or neglected child. Further, a decision by parents who have legal authority for the child or, in the absence of parents with legal authority for the child, any person with legal authority for the child who refuses a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care if (i) such decision is made jointly by the parents or other person with legal authority and the child; (ii) the child has reached 14 years of age and is sufficiently mature to have an informed opinion on the subject of his medical treatment; (iii) the parents or other person with legal authority and the child have considered alternative treatment options; and (iv) the parents or other person with legal authority and the child believe in good faith that such decision is in the child's best interest. Nothing in this subdivision shall be construed to limit the provisions of § 16.1-278.4;

3. Whose parents or other person responsible for his care abandons such child;

4. Whose parents or other person responsible for his care commits or allows to be committed any act of sexual exploitation or any sexual act upon a child in violation of the law;

5. Who is without parental care or guardianship caused by the unreasonable absence or the mental or physical incapacity of the child's parent, guardian, legal custodian, or other person standing in loco parentis;

6. Whose parents or other person responsible for his care creates a substantial risk of physical or mental injury by knowingly leaving the child alone in the same dwelling, including an apartment as defined in § 55.1-2000, with a person to whom the child is not related by blood or marriage and who the parent or other person responsible for his care knows has been convicted of an offense against a minor for which registration is required as a Tier III offender pursuant to § 9.1-902; or

7. Who has been identified as a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000, 22 U.S.C. § 7102 et seq., and in the federal Justice for Victims of Trafficking Act of 2015, 42 U.S.C. § 5101 et seq.

If a civil proceeding under this chapter is based solely on the parent having left the child at a hospital or emergency medical services agency, it shall be an affirmative defense that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended emergency medical services agency that employs emergency medical services personnel, within 14 days of the child's birth. For purposes of terminating parental rights pursuant to § 16.1-283 and placement for adoption, the court may find such a child is a neglected child upon the ground of abandonment.

"Adoptive home" means the place of residence of any natural person in which a child resides as a member of the household and in which he has been placed for the purposes of adoption or in which he

INTRODUCED

HB1248

59 has been legally adopted by another member of the household.

60 "Adult" means a person 18 years of age or older.

61 "Ancillary crime" or "ancillary charge" means any delinquent act committed by a juvenile as a part
62 of the same act or transaction as, or that constitutes a part of a common scheme or plan with, a
63 delinquent act that would be a felony if committed by an adult.

64 "Boot camp" means a short-term secure or nonsecure juvenile residential facility with highly
65 structured components including, but not limited to, military style drill and ceremony, physical labor,
66 education and rigid discipline, and no less than six months of intensive aftercare.

67 "Child," "juvenile," or "minor" means a person who is (i) younger than 18 years of age or (ii) for
68 purposes of the Fostering Futures program set forth in Article 2 (§ 63.2-917 et seq.) of Chapter 9 of
69 Title 63.2, younger than 21 years of age and meets the eligibility criteria set forth in § 63.2-919.

70 "Child in need of services" means (i) a child whose behavior, conduct or condition presents or results
71 in a serious threat to the well-being and physical safety of the child or (ii) a child under the age of 14
72 whose behavior, conduct or condition presents or results in a serious threat to the well-being and
73 physical safety of another person; however, no child who in good faith is under treatment solely by
74 spiritual means through prayer in accordance with the tenets and practices of a recognized church or
75 religious denomination shall for that reason alone be considered to be a child in need of services, nor
76 shall any child who habitually remains away from or habitually deserts or abandons his family as a
77 result of what the court or the local child protective services unit determines to be incidents of physical,
78 emotional or sexual abuse in the home be considered a child in need of services for that reason alone.

79 However, to find that a child falls within these provisions, (i) the conduct complained of must
80 present a clear and substantial danger to the child's life or health or to the life or health of another
81 person, (ii) the child or his family is in need of treatment, rehabilitation or services not presently being
82 received, and (iii) the intervention of the court is essential to provide the treatment, rehabilitation or
83 services needed by the child or his family.

84 "Child in need of supervision" means:

85 1. A child who, while subject to compulsory school attendance, is habitually and without justification
86 absent from school, and (i) the child has been offered an adequate opportunity to receive the benefit of
87 any and all educational services and programs that are required to be provided by law and which meet
88 the child's particular educational needs, (ii) the school system from which the child is absent or other
89 appropriate agency has made a reasonable effort to effect the child's regular attendance without success,
90 and (iii) the school system has provided documentation that it has complied with the provisions of
91 § 22.1-258; or

92 2. A child who, without reasonable cause and without the consent of his parent, lawful custodian or
93 placement authority, remains away from or deserts or abandons his family or lawful custodian on more
94 than one occasion or escapes or remains away without proper authority from a residential care facility in
95 which he has been placed by the court, and (i) such conduct presents a clear and substantial danger to
96 the child's life or health, (ii) the child or his family is in need of treatment, rehabilitation or services not
97 presently being received, and (iii) the intervention of the court is essential to provide the treatment,
98 rehabilitation or services needed by the child or his family.

99 "Child welfare agency" means a child-placing agency, child-caring institution or independent foster
100 home as defined in § 63.2-100.

101 "The court" or the "juvenile court" or the "juvenile and domestic relations court" means the juvenile
102 and domestic relations district court of each county or city.

103 "Delinquent act" means (i) an act designated a crime under the law of the Commonwealth, or an
104 ordinance of any city, county, town, or service district, or under federal law, (ii) a violation of
105 § 18.2-308.7, or (iii) a violation of a court order as provided for in § 16.1-292, but does not include an
106 act other than a violation of § 18.2-308.7, which is otherwise lawful, but is designated a crime only if
107 committed by a child.

108 "Delinquent child" means a child *11 years of age or older* who has committed a delinquent act or an
109 adult who has committed a delinquent act prior to his ~~18th~~ *eighteenth* birthday, except where the
110 jurisdiction of the juvenile court has been terminated under the provisions of § 16.1-269.6.

111 "Department" means the Department of Juvenile Justice and "Director" means the administrative head
112 in charge thereof or such of his assistants and subordinates as are designated by him to discharge the
113 duties imposed upon him under this law.

114 "Driver's license" means any document issued under Chapter 3 (§ 46.2-300 et seq.) of Title 46.2, or
115 the comparable law of another jurisdiction, authorizing the operation of a motor vehicle upon the
116 highways.

117 "Family abuse" means any act involving violence, force, or threat that results in bodily injury or
118 places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by
119 a person against such person's family or household member. Such act includes, but is not limited to, any
120 forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of

Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

"Family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers, sisters, half-brothers, half-sisters, grandparents and grandchildren, regardless of whether such persons reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any individual who has a child in common with the person, whether or not the person and that individual have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous 12 months, cohabited with the person, and any children of either of them then residing in the same home with the person.

"Fictive kin" means persons who are not related to a child by blood or adoption but have an established relationship with the child or his family.

"Foster care services" means the provision of a full range of casework, treatment and community services for a planned period of time to a child who is abused or neglected as defined in § 63.2-100 or in need of services as defined in this section and his family when the child (i) has been identified as needing services to prevent or eliminate the need for foster care placement, (ii) has been placed through an agreement between the local board of social services or a public agency designated by the community policy and management team and the parents or guardians where legal custody remains with the parents or guardians, (iii) has been committed or entrusted to a local board of social services or child welfare agency, (iv) has been placed under the supervisory responsibility of the local board pursuant to § 16.1-293, or (v) is living with a relative participating in the Federal-Funded Kinship Guardianship Assistance program set forth in § 63.2-1305 and developed consistent with 42 U.S.C. § 673 or the State-Funded Kinship Guardianship Assistance program set forth in § 63.2-1306.

"Independent living arrangement" means placement of (i) a child at least 16 years of age who is in the custody of a local board or licensed child-placing agency by the local board or licensed child-placing agency or (ii) a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement by the Department of Juvenile Justice, in a living arrangement in which such child or person does not have daily substitute parental supervision.

"Independent living services" means services and activities provided to a child in foster care 14 years of age or older and who has been committed or entrusted to a local board of social services, child welfare agency, or private child-placing agency. "Independent living services" may also mean services and activities provided to a person who (i) was in foster care on his ~~18th~~ *eighteenth* birthday and has not yet reached the age of 21 years; (ii) is between the ages of 18 and 21 and who, immediately prior to his commitment to the Department of Juvenile Justice, was in the custody of a local board of social services; or (iii) is a child at least 16 years of age or a person between the ages of 18 and 21 who was committed to the Department of Juvenile Justice immediately prior to placement in an independent living arrangement. "Independent living services" includes counseling, education, housing, employment, and money management skills development and access to essential documents and other appropriate services to help children or persons prepare for self-sufficiency.

"Intake officer" means a juvenile probation officer appointed as such pursuant to the authority of this chapter.

"Jail" or "other facility designed for the detention of adults" means a local or regional correctional facility as defined in § 53.1-1, except those facilities utilized on a temporary basis as a court holding cell for a child incident to a court hearing or as a temporary lock-up room or ward incident to the transfer of a child to a juvenile facility.

"The judge" means the judge or the substitute judge of the juvenile and domestic relations district court of each county or city.

"This law" or "the law" means the Juvenile and Domestic Relations District Court Law embraced in this chapter.

"Legal custody" means (i) a legal status created by court order which vests in a custodian the right to have physical custody of the child, to determine and redetermine where and with whom he shall live, the right and duty to protect, train and discipline him and to provide him with food, shelter, education and ordinary medical care, all subject to any residual parental rights and responsibilities or (ii) the legal status created by court order of joint custody as defined in § 20-107.2.

"Permanent foster care placement" means the place of residence in which a child resides and in which he has been placed pursuant to the provisions of §§ 63.2-900 and 63.2-908 with the expectation and agreement between the placing agency and the place of permanent foster care that the child shall remain in the placement until he reaches the age of majority unless modified by court order or unless

182 removed pursuant to § 16.1-251 or 63.2-1517. A permanent foster care placement may be a place of
183 residence of any natural person or persons deemed appropriate to meet a child's needs on a long-term
184 basis.

185 "Qualified individual" means a trained professional or licensed clinician who is not an employee of
186 the local board of social services or licensed child-placing agency that placed the child in a qualified
187 residential treatment program and is not affiliated with any placement setting in which children are
188 placed by such local board of social services or licensed child-placing agency.

189 "Qualified residential treatment program" means a program that (i) provides 24-hour residential
190 placement services for children in foster care; (ii) has adopted a trauma-informed treatment model that
191 meets the clinical and other needs of children with serious emotional or behavioral disorders, including
192 any clinical or other needs identified through assessments conducted pursuant to clause (viii) of this
193 definition; (iii) employs registered or licensed nursing and other clinical staff who provide care, on site
194 and within the scope of their practice, and are available 24 hours a day, 7 days a week; (iv) conducts
195 outreach with the child's family members, including efforts to maintain connections between the child
196 and his siblings and other family; documents and maintains records of such outreach efforts; and
197 maintains contact information for any known biological family and fictive kin of the child; (v) whenever
198 appropriate and in the best interest of the child, facilitates participation by family members in the child's
199 treatment program before and after discharge and documents the manner in which such participation is
200 facilitated; (vi) provides discharge planning and family-based aftercare support for at least six months
201 after discharge; (vii) is licensed in accordance with 42 U.S.C. § 671(a)(10) and accredited by an
202 organization approved by the federal Secretary of Health and Human Services; and (viii) requires that
203 any child placed in the program receive an assessment within 30 days of such placement by a qualified
204 individual that (a) assesses the strengths and needs of the child using an age-appropriate, evidence-based,
205 validated, and functional assessment tool approved by the Commissioner of Social Services; (b)
206 identifies whether the needs of the child can be met through placement with a family member or in a
207 foster home or, if not, in a placement setting authorized by 42 U.S.C. § 672(k)(2), including a qualified
208 residential treatment program, that would provide the most effective and appropriate level of care for the
209 child in the least restrictive environment and be consistent with the short-term and long-term goals
210 established for the child in his foster care or permanency plan; (c) establishes a list of short-term and
211 long-term mental and behavioral health goals for the child; and (d) is documented in a written report to
212 be filed with the court prior to any hearing on the child's placement pursuant to § 16.1-281, 16.1-282,
213 16.1-282.1, or 16.1-282.2.

214 "Residual parental rights and responsibilities" means all rights and responsibilities remaining with the
215 parent after the transfer of legal custody or guardianship of the person, including but not limited to the
216 right of visitation, consent to adoption, the right to determine religious affiliation and the responsibility
217 for support.

218 "Secure facility" or "detention home" means a local, regional or state public or private locked
219 residential facility that has construction fixtures designed to prevent escape and to restrict the movement
220 and activities of children held in lawful custody.

221 "Shelter care" means the temporary care of children in physically unrestricting facilities.

222 "State Board" means the State Board of Juvenile Justice.

223 "Status offender" means a child who commits an act prohibited by law which would not be criminal
224 if committed by an adult.

225 "Status offense" means an act prohibited by law which would not be an offense if committed by an
226 adult.

227 "Violent juvenile felony" means any of the delinquent acts enumerated in subsection B or C of
228 § 16.1-269.1 when committed by a juvenile 14 years of age or older.

229 **§ 16.1-278.8. Delinquent juveniles.**

230 A. If a juvenile *11 years of age or older* is found to be delinquent, except where such finding
231 involves a refusal to take a breath test in violation of § 18.2-268.2 or a similar ordinance, the juvenile
232 court or the circuit court may make any of the following orders of disposition for his supervision, care
233 and rehabilitation:

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

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

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

240 4. Defer disposition for a specific period of time established by the court with due regard for the
241 gravity of the offense and the juvenile's history, after which time the charge may be dismissed by the
242 judge if the juvenile exhibits good behavior during the period for which disposition is deferred;

243 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 that 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 specific period of time established by the court with due regard for the gravity of the offense and the juvenile's history, 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 Behavioral Health and Developmental 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 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 as to the hours during which he may operate a motor vehicle. Any juvenile whose driver's license is suspended may be referred for an assessment and subsequent referral to appropriate services, upon such terms and conditions as the court may order. The court, in its discretion and upon a demonstration of hardship, may authorize the use of a restricted permit to operate a motor vehicle by any juvenile who enters such program for any of the purposes set forth in subsection E of § 18.2-271.1 or for travel to and from school. The restricted permit shall be issued in accordance with the provisions of such subsection. However, only an abstract of the court order that identifies the juvenile and the conditions under which the restricted license is to be issued shall be sent to the Department of Motor Vehicles.

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

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

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

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

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

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

13. 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 juvenile;

b. A child welfare agency, private organization or facility that is licensed or otherwise authorized by law to receive and provide care for such juvenile. The court shall not transfer legal custody of a delinquent juvenile to an agency, organization or facility outside of the Commonwealth without the approval of the Director; 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 juvenile has residence if other than the county or city in which the court has jurisdiction. The board shall accept the juvenile 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, such local board may be required to temporarily accept a juvenile for a period not to exceed 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 juvenile to any local board of social services in the Commonwealth when such local board consents to the commitment. The board to which the juvenile is committed shall have the final authority to determine the appropriate placement for the juvenile. Any order authorizing removal from the home and transferring legal custody of a juvenile to a local board of social services as provided in this subdivision shall be entered only upon a finding by the court that reasonable efforts have been made to prevent removal and that continued placement in the home would be contrary to the welfare of the juvenile, and the order shall so state;

14. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, commit the juvenile to the Department of Juvenile Justice, but only if (i) he is 11 years of age or older and has been adjudicated delinquent of an act enumerated in subsection B or C of § 16.1-269.1 or (ii) he is 14 years of age or older and the current offense is (a) an offense that would be a felony if committed by an adult, (b) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been found to be delinquent based on an offense that would be a felony if committed by an adult, or (c) an offense that would be a Class 1 misdemeanor if committed by an adult and the juvenile has previously been adjudicated delinquent of three or more offenses that would be a Class 1 misdemeanor if committed by an adult, and each such offense was not a part of a common act, transaction or scheme;

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

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

17. Unless waived by an agreement between the attorney for the Commonwealth and the juvenile and his attorney or other legal representative, upon consideration of the results of an investigation completed pursuant to § 16.1-273, impose the penalty authorized by § 16.1-285.1;

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

19. Require the juvenile to participate in a gang-activity prevention program including, but not limited to, programs funded under the Virginia Juvenile Community Crime Control Act pursuant to § 16.1-309.7, if available, when a juvenile has been found delinquent of any of the following violations: § 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, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147, or any violation of a local ordinance adopted pursuant to § 15.2-1812.2.

B. If the court finds a juvenile *11 years of age or older* delinquent of any of the following offenses, the court shall require the juvenile to make at least partial restitution or reparation for any property damage, for loss caused by the offense, or for actual medical expenses incurred by the victim as a result of the offense: § 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, 18.2-128, 18.2-137, 18.2-138, 18.2-146, or 18.2-147; or for any violation of a local ordinance adopted pursuant to § 15.2-1812.2. The court shall further require the juvenile to participate in a community service project under such conditions as the court prescribes.

§ 16.1-278.9:1. Delinquent act committed by juvenile younger than 11 years of age; disposition.

If a juvenile younger than 11 years of age is found to have committed a delinquent act, the juvenile shall not be proceeded upon as delinquent pursuant to § 16.1-278.8; however, the court may make any orders of disposition authorized under § 16.1-278.4 or 16.1-278.5.