

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 904

*An Act to amend and reenact § 16.1-249 of the Code of Virginia, relating to places of confinement for juveniles.*

[H 624]

Approved April 20, 1994

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

**1. That § 16.1-249 of the Code of Virginia is amended and reenacted as follows:**

§ 16.1-249. Places of confinement for children.

A. If it is ordered that a child remain in detention or shelter care pursuant to § 16.1-248.1, such child 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 child 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.

B. No child 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, E1, or F of this section.

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 child, who is or appears to be under the age of eighteen 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 § 16.1-269 or § 16.1-270, the child if in confinement may be transferred to 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 for detention of children.

E. If, in the judgment of the custodian as a result of placement of the child in a facility designated in subsection A hereof, a child fifteen years of age or older has demonstrated that he is a threat to the security or safety of the other children detained or the staff of the home or facility, the judge shall determine whether such child should be transferred to another juvenile facility including a jail or other place of detention for adults pursuant to the limitations of subdivisions D (i), (ii), and (iii) of this section.

E1. If, in the judgment of the custodian, it has been demonstrated that the presence of a child fifteen years of age or older as a result of his placement in a facility designated in subsection A creates a threat to the security or safety of the other children detained or the staff of the home or facility, the custodian may transfer the child to another juvenile facility, or a jail or other place of detention for adults pursuant to the limitations of subdivision D (i), (ii) or (iii) for a period not to exceed six hours.

F. If a child fifteen 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 child or the community, such child may be detained for a period no longer than six hours in a court holding cell incident to a court hearing, or in a temporary lock-up room or ward for juveniles while arrangements are completed to transfer the child to a juvenile facility. Such room, ward or cell may be located in a building which also contains a jail or other facility for the detention of adults, provided (i) such room, ward or cell is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to § 16.1-269, (ii) constant supervision is provided, and (iii) the facility is approved by the State Board for the detention of children. The State Board is authorized and directed to prescribe minimum standards for temporary lock-up rooms, wards and court holding cells based on the requirements set out in this subsection. The Department shall assist the localities or combinations thereof in implementing this section and ensuring compliance herewith.

G. A judge may order the predispositional detention of persons eighteen years of age or older in a juvenile facility or in an adult facility, or in a juvenile facility only for a violation of the terms and conditions of release from a learning center. However, a judge shall not confine any person eighteen years of age or older in a juvenile facility unless he finds from evidence that the presence of such a person in a juvenile facility is consistent with assuring the safety of the children confined in the facility and the staff of the facility. Such finding shall be in writing and be included in the order of detention.