

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 330

An Act to amend and reenact § 16.1-284.1 of the Code of Virginia, relating to the post-dispositional confinement of a child in a local secure facility.

[H 2183]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

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

§ 16.1-284.1. Placement in secure local facility.

A. If a child ~~sixteen~~ *fourteen* years of age or older is found to have committed an offense which if committed by an adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled pursuant to § 16.1-273 that the child has not previously been found guilty of a delinquent act within the preceding twelve months, (ii) that the interests of the child and the community require that the child be placed under legal restraint or discipline, and (iii) that other placements authorized by this title will not serve the best interests of the child, then the court may order the child confined in a detention home or other secure facility for juveniles for a period not to exceed thirty calendar days from the date the order is entered, inclusive of time served in a detention home or other secure facility, for a single offense or multiple offenses.

B. If a child ~~sixteen~~ *fourteen* years of age or older is found to have committed an offense which if committed by an adult would be punishable by confinement in a state or local correctional facility as defined in § 53.1-1, and the court determines (i) after receipt of a social history compiled within the immediately preceding twelve months pursuant to § 16.1-273 that the child has been adjudged a delinquent within the immediately preceding twelve months and has failed to respond to past treatment efforts, (ii) that the child is amenable to continued treatment efforts in the community, and (iii) the interests of the community and the child require that the child be placed under legal restraint or discipline, based on the nature of the present offense, the nature of the child's prior delinquency record, and the nature of the past treatment efforts, then the court may order the child committed to the Department, but suspend such commitment and order the child confined in a detention home or other secure facility for juveniles for a period not to exceed six months, inclusive of time served in detention while awaiting disposition, for a single offense or for multiple offenses. In suspending the commitment to the Department as provided for in this subsection, the court shall specify conditions for the child's participation in one or more community treatment programs as may be appropriate for the child's rehabilitation.

C. During any period of confinement ordered pursuant to this section, the court shall conduct a mandatory review hearing at least once during each thirty days of the period of confinement and at such other times upon the request of the child's probation officer, for good cause shown. If it appears at such hearing that the purpose of the order of confinement has been achieved, the child shall be released on probation for such period and under such conditions as the court may specify and remain subject to the order suspending commitment to the State Department of Youth and Family Services. If the court determines at the first or any subsequent review hearing that the child is consistently failing to comply with the conditions specified by the court or the policies and program requirements of the facility, then the court shall order that the child either be (i) released under such conditions as the court may specify subject to the suspended commitment, or (ii) committed to the State Department of Youth and Family Services pursuant to § 16.1-291. If the court determines at the first or any subsequent review hearing that the child is not actively involved in any community treatment program through no fault of his own, then the court shall order that the child be released under such conditions as the court may specify subject to the suspended commitment.

D. A child may only be ordered confined pursuant to this section to a facility in compliance with standards established by the State Board for such placements; standards for these facilities shall have regard for reasonable utilization of these facilities and the requirements of § 16.1-310, consistent with the intent of this section.

E. The Department of Youth and Family Services shall assist the localities or combinations thereof in implementing this section consistent with the statewide plan required by § 16.1-310 and pursuant to standards promulgated by the State Board, in order to ensure the availability and reasonable access of each court to the facilities the use of which is authorized by this section.