

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 840

An Act to amend and reenact §§ 16.1-322.1, 16.1-322.2, and 16.1-322.4 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 11 of Title 16.1 an article numbered 12.1, consisting of sections numbered 16.1-309.2 through 16.1-309.10; and to repeal §§ 16.1-310 through 16.1-314 of the Code of Virginia, relating to funding for local juvenile programs and the Virginia Juvenile Community Crime Control Act; penalty.

[S 1114]

Approved May 5, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-322.1, 16.1-322.2, and 16.1-322.4 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 11 of Title 16.1 an article numbered 12.1, consisting of sections numbered 16.1-309.2 through 16.1-309.10, as follows:

Article 12.1.

Virginia Juvenile Community Crime Control Act.

§ 16.1-309.2. Purpose and intent.

The General Assembly, to ensure the imposition of appropriate and just sanctions and to make the most efficient use of correctional resources for those juveniles before the court on petitions alleging that the juvenile is a child in need of services, child in need of supervision, or delinquent, has determined that it is in the best interest of the Commonwealth to establish a community-based system of progressive intensive sanctions and services that correspond to the severity of offense and treatment needs. The purpose of this system shall be to deter crime by providing immediate, effective punishment that emphasizes accountability of the juvenile offender for his actions as well as reduces the pattern of repeat offending. In furtherance of this purpose, counties, cities or combinations thereof are encouraged to develop, implement, operate and evaluate programs and services responsive to their specific juvenile offender needs and juvenile crime trends.

This article shall be interpreted and construed to accomplish the following purposes:

1. Promote an adequate level of services to be available to every juvenile and domestic relations district court.

2. Ensure local autonomy and flexibility in addressing juvenile crime.

3. Encourage a public and private partnership in the design and delivery of services for juveniles who come before the court on a petition alleging a child is in need of services, in need of supervision or delinquent.

4. Emphasize parental responsibility and provide community-based services for juveniles and their families which hold them accountable for their behavior.

5. Establish a locally driven statewide planning process for the allocation of state resources.

6. Promote the development of an adequate service capacity for juveniles before the court on petitions alleging status or delinquent offenses.

§ 16.1-309.3. Establishment of a community-based system of services; biennial local plan; quarterly report.

A. Any county, city or combination thereof may establish a community-based system pursuant to this article, which shall provide, or arrange to have accessible, a variety of predispositional and postdispositional services. These services may include diversion, house arrest, intensive juvenile supervision, substance abuse assessment and testing, intensive individual and family treatment, guaranteed access to a secure detention facility, structured day treatment and structured residential programs, aftercare/parole community supervision and residential and nonresidential services for juvenile offenders who are before the court on petitions alleging that the juvenile is delinquent, in need of services or in need of supervision. Such community-based systems shall be developed after consultation with the judge or judges of the juvenile and domestic relations district court and the director of the court services unit.

B. Community-based services instituted pursuant to this article shall be administered by a county, city or combination thereof, and may be administered through a community policy and management team established under § 2.1-750 or a commission established under § 16.1-315. Such programs and services may be provided by qualified public or private agencies, pursuant to appropriate contracts. Any commission established under § 16.1-315 providing predispositional and postdispositional services prior to the enactment of this article which serves a member jurisdiction that is a city having a population between 135,000 and 165,000 shall directly receive, during the period fiscal year 1995 through fiscal year 2000, the proportion of funds calculated under § 16.1-309.7 on behalf of the owner localities. During the period fiscal year 1995 through fiscal year 2000, the funds received shall be allocated

directly to the member localities. Any member locality which elects to withdraw from the commission shall be entitled to its full allocation as provided in §§ 16.1-309.6 and 16.1-309.7. The Department of Youth and Family Services shall provide technical assistance to localities, upon request, for establishing or expanding programs or services pursuant to this article.

C. Funds provided to implement the provisions of this article shall not be used to supplant funds established as the state pool of funds under § 2.1-757.

D. Any county, city or combination thereof which establishes a community-based system pursuant to this article shall biennially submit to the State Board for approval a local plan for the development, implementation and operation of such services, programs and facilities pursuant to this article. The State Board shall solicit written comments on the plan from the judge or judges of the juvenile and domestic relations court and the director of the court services unit. Prior to the initiation of any new services, the plan shall also include a cost comparison for the private operation of such services.

E. Each locality shall report quarterly to the Director the number of child-care days registered during the preceding quarter by each juvenile correctional program or facility operated within such locality's plan.

§ 16.1-309.4. Statewide plan for juvenile services.

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

§ 16.1-309.5. Construction, etc., of detention homes and other facilities; reimbursement in part by Commonwealth.

A. The Commonwealth shall reimburse any county, city or any combination thereof for up to one-half the cost of construction, enlargement, renovation, purchase or rental of a detention home or other facility upon a basis approved by the Board in accordance with the provisions of this section.

B. The construction, renovation, purchase, rental, maintenance and operation of a detention home or other facility established by a county, city or any combination thereof and the necessary expenses incurred in operating such facilities shall be the responsibility of the county, city or any combination thereof.

C. The Board shall promulgate regulations to include criteria to serve as guidelines in evaluating requests for such reimbursements and to ensure the geographically equitable distribution of state funds provided for such purpose. Priority funding shall be given to multijurisdictional initiatives. No such reimbursement for costs of construction shall be made, however, unless the plans and specifications, including the need for additional personnel therefor, have been submitted to the Governor and the construction has been approved by him. Such reimbursement shall be paid by the State Treasurer out of funds appropriated to the Department. In the event that a county or city requests and receives financial assistance from other public fund sources outside the provisions of this law, the total financial assistance and reimbursement shall not exceed the total construction cost of the project exclusive of land and site improvement costs, and such funds shall not be considered state funds.

§ 16.1-309.6. How state appropriations for operating costs of Juvenile Community Crime Control Act programs determined; notice of financial aid.

The Governor's proposed biennial budget shall include, for each fiscal year, an appropriation for operating costs for Juvenile Community Crime Control Act programs. The proposed appropriation shall include amounts for compensating counties, cities and combinations thereof which elect to establish a system of community-based services pursuant to this article. No county, city or combination thereof approved under the provisions of this Act, which utilized block grant services or programs in fiscal year 1995, may contribute less funding for the implementation of its local plan than was contributed in fiscal year 1995.

The Department shall review annually the costs of operating services, programs and facilities pursuant to this article and recommend adjustments to maintain the Commonwealth's proportionate share. The Department shall no later than the fifteenth day following adjournment sine die of the General Assembly provide each county and city an estimate of funds appropriated pursuant to this article.

§ 16.1-309.7. Determination of payment.

A. The Commonwealth shall provide financial assistance to localities whose plans have been approved pursuant to subsection D of § 16.1-309.3 in quarterly payments based on the annual calculated costs which shall be determined as follows:

1. For predispositional community-based services, three-quarters of the calculated costs as determined by the following factors: (i) the statewide daily average cost evenly divided for predispositional community-based residential and nonresidential services and (ii) the number of arrests

of juveniles based on the locality's most recent year available Uniform Crime Reports for (a) one-third of all Part 1 crimes against property, (b) one-third of all drug offenses and (c) all remaining Part 2 arrests.

2. For postdispositional community-based services, one-half of the calculated costs as determined by the following factors: (i) the statewide average daily costs evenly divided for postdispositional community-based residential and nonresidential services and (ii) the locality's previous year's court dispositions for all juveniles adjudicated on (a) delinquent, (b) child in need of services, or (c) child in need of supervision petition, less those juveniles receiving services under the provisions of §§ 16.1-285.1 and 16.1-286.

B. Any moneys distributed by the Commonwealth under this article which are unexpended at the end of each fiscal year within a biennium shall be retained by the county, city or combination thereof and subsequently expended for operating expenses of Juvenile Community Crime Control Act programs. Any surplus funds remaining at the end of a biennium shall be returned to the state treasury.

§ 16.1-309.8. Costs of maintenance of juveniles in Community Crime Control Act programs.

Any county, city or combination thereof operating a Juvenile Community Crime Control Act program may collect from any locality of this Commonwealth from which a juvenile is placed in its program a daily rate which does not exceed the sum of the total daily operating costs.

§ 16.1-309.9. Establishment of standards; determination of compliance.

A. The State Board of Youth and Family Services shall develop, promulgate and approve standards for the development, implementation, operation and evaluation of the range of community-based programs, services and facilities authorized by this article. The State Board shall also approve minimum standards for the construction and equipment of detention homes or other facilities and for food, clothing, medical attention, and supervision of juveniles to be housed in these facilities and programs.

B. The State Board may prohibit, by its order, the placement of juveniles in any place of residence which does not comply with the minimum standards. It may limit the number of juveniles to be detained or housed in a detention home or other facility and may designate some other place of detention or housing for juveniles who would otherwise be held therein.

C. The Department shall periodically review all services established and annually review expenditures made under this article to determine compliance with the approved local plans and operating standards. If the Department determines that a program is not in substantial compliance with the approved plan or standards, the Department may suspend all or any portion of financial aid made available to the locality until there is compliance.

D. Orders of the State Board of Youth and Family Services shall be enforced by circuit courts as is provided for the enforcement of orders of the State Board of Corrections under § 53.1-70.

§ 16.1-309.10. Visitation and management of detention homes; other facilities; reports of superintendent.

In the event that a detention home, group home or other residential care facility for children in need of services or delinquent or alleged delinquent youth is established by a county, city, or any combination thereof, it shall be subject to visitation, inspection and regulation by the State Board or its agents, and shall be furnished and operated so far as possible as a family home under the management of a superintendent. It shall be the duty of the superintendent to furnish the Department such reports and other statistical data relating to the operation of such detention homes, group homes or other residential care facilities for children in need of services or delinquent or alleged delinquent youth as may be required by the Director.

§ 16.1-322.1. Apportionment of funds to localities or commissions operating juvenile secure detention facilities or programs; standards for apportionment.

The Department shall apportion among the localities or commissions operating a juvenile ~~correctional secure detention facility; or program~~ the moneys appropriated to the Department in the general appropriation act for the support of such facilities, ~~programs and services~~ excluding amounts approved for the state share of construction and rental of facilities, state ward per diem allowances, and payments for the United States Department of Agriculture lunch program. Such apportionment shall be made as follows:

Three percent of the state funds available for apportionment under the provisions of this section shall be held in reserve to be distributed in the manner specified by § 16.1-322.2. The balance allocation shall be apportioned to provide each locality or commission operating a juvenile ~~correctional secure detention facility or program~~ an allowance for salaries and expenses. Such allowance shall be at least equal to the amount of the allowance provided to each locality or commission for such salaries and expenses in the immediately preceding fiscal year for similar services. The Department may adjust such allowance, where applicable, for new programs and facilities or for discontinued programs and services.

For the fiscal year beginning July 1, 1983, and ending June 30, 1984, the amount of this allowance shall be fixed at the sum of the quarterly payments provided to each locality or commission under the prior provisions of § 16.1-322.2 in effect for the fiscal year beginning July 1, 1982, and ending June 30, 1983.

The remainder of state funds available for apportionment under the provisions of this section shall be

apportioned to localities or commissions operating a juvenile correctional facility or program in equal quarterly installments. Each locality's or commission's share of this apportionment shall be equal to the proportion that the number of weighted child care days registered by such locality or commission during the most recent three months for which data are available prior to the date of the apportionment bears to the state total for weighted child care days for the same time period. Child care days and the weights assigned thereto for the purpose of calculating weighted child care days for this apportionment shall be:

1. The aggregate child care days for children held in secure detention homes weighted fifty-two percent.

2. The aggregate child care days for children placed in less secure detention facilities by court order and for children held in group homes, community youth homes, probation houses, juvenile villas, family group homes, and other residential care facilities weighted thirty-nine percent.

3. The aggregate child care days for children served in outreach detention programs weighted nine percent.

The Department may reduce the apportionments made in accordance with this section from time to time if any facility or program fails to comply with Department policy or standards approved by the Board. In effecting such a reduction of funds, the Department shall not be required to comply with the provisions of Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9. Each locality or commission eligible to receive state funds apportioned under this section shall maintain operational and financial records which shall be open for evaluation by the Department and audit by the Auditor of Public Accounts.

The Governor may withhold approval for state expenditures, by reimbursement or otherwise, for the purposes set out in this section as provided in the current general appropriations act.

§ 16.1-322.2. Payment of funds quarterly; distribution and reallocation of reserve.

State moneys appropriated to the Department for the support of local juvenile ~~correctional secure detention facilities or programs~~ and apportioned in accordance with § 16.1-322.1 shall be paid to localities or commissions quarterly. If a local juvenile ~~correctional secure detention facility or program~~ fails to comply with Department policy or standards adopted by the State Board, the next quarterly payment may be reduced and the difference paid into the general fund of the state treasury. In effecting such a reduction of funds, the Department shall not be required to comply with the provisions of Chapter 1.1:1 (§ 9-6.14:1 et seq.) of Title 9.

The three percent of the apportionment to be held in reserve shall be distributed only upon the written authorization of the Director of the Department. In the event of emergencies, the Director may reallocate any portion of the reserve among localities or commissions operating a juvenile correctional facility or program. Any balance remaining in the reserve as of June 1 each year, however, shall be apportioned to each locality or commission on a pro rata basis according to the total of its four quarterly payments for the fiscal year and paid prior to the close of the budgetary period.

Any moneys distributed by the Commonwealth under this section which are unexpended at the end of each fiscal year *within a biennium* shall be retained by the locality or commission and subsequently expended for operating expenses of juvenile ~~correctional secure detention facilities or programs~~. *Any surplus funds remaining at the end of the biennium shall be returned to the state treasury.*

The Governor may withhold approval for state expenditures, by reimbursement or otherwise, for the purpose set out in this section as provided in the current general appropriations act.

§ 16.1-322.4. Payments for children from other counties or cities.

Any locality or commission operating a juvenile ~~correctional program or secure detention facility~~ may collect from any locality of this Commonwealth from which a child is placed in its ~~program or facility~~ the reasonable cost of maintaining such child in such ~~program or facility~~ *a daily rate which does not exceed the sum total of the daily operating costs.* Reasonable Daily cost shall be based on the cost of feeding, clothing, caring for, and furnishing medicine and medical attention for such child as may be agreed upon by the governmental units involved; or, in the absence of such agreement, the actual child care day cost, including depreciation, of operating the program or facility less state aid provided pursuant to § 16.1-322.2 or otherwise provided by the Department.

2. That §§ 16.1-310 through 16.1-314 of the Code of Virginia are repealed.

3. That this act shall become effective January 1, 1996, if state funds are provided to carry out the purposes of this act during the 1995 Session of the General Assembly.

4. That the owners, whether sole or partial owners, of a block grant program previously funded pursuant to § 16.1-322.1 and approved under the provisions of this act shall receive state funds under this act in an amount at least equal to the amount allocated on their behalf in fiscal year 1995.

5. That this act shall not apply to the operating funds of juvenile secure detention facilities funded pursuant to § 16.1-322.1.