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SENATE BILL NO. 1114

Offered January 23, 1995

A BILL 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 the Virginia Juvenile Community Crime Control Act; penalty.

Patrons—Earley, Calhoun, Gartlan, Holland, C.A., Holland, E.M., Holland, R.J., Houck, Nolen, Reasor, Schewel and Stosch; Delegates: Bloxom, Cantor, Christian, Cunningham, Jackson, Jones, J.C. and Mims

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. 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 status or delinquent offenses, 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 reducing 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 status and delinquent charges.

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 and 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 would otherwise be committed to the Department of Youth and Family Services pursuant to § 16.1-278.8. 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. 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.

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60 D. Any county, city or combination thereof which establishes a community-based system pursuant to
61 this article shall biennially submit to the State Board for approval a local plan for the development,
62 implementation and operation of such services, programs and facilities pursuant to this article. At the
63 initiation of any new services, the plan shall also include a cost comparison for the private operation of
64 such services.

65 E. Each locality shall report quarterly to the Director the number of child-care days registered
66 during the preceding month by each juvenile correctional program or facility operated within such
67 locality.

68 § 16.1-309.4. Statewide plan for juvenile services.

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

77 § 16.1-309.5. Construction, etc., of detention homes and other facilities; charge on counties and
78 cities; reimbursement in part by Commonwealth.

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

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

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

96 § 16.1-309.6. How state appropriations for operating costs of Juvenile Community Crime Control Act
97 program determined; notice of financial aid.

98 The Governor's proposed biennial budget shall include, for each fiscal year, an appropriation for
99 operating costs for Juvenile Community Crime Control Act programs. The proposed appropriation shall
100 include amounts for compensating counties, cities and combinations thereof who elect to establish a
101 system of community-based services pursuant to this article.

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

107 § 16.1-309.7. Determination of payment.

108 A. The Commonwealth shall provide financial assistance to localities pursuant to this article in
109 quarterly payments based on the annual calculated costs which shall be determined as follows:

110 1. For detention homes, one-half of the calculated costs as determined by the following factors: (i)
111 the statewide average daily cost for secure confinement in detention; (ii) the number of juvenile arrests
112 based on the locality's most recent year available Uniform Crime Reports for (a) all Part 1 crimes
113 against the person, (b) two-thirds of Part 1 crimes against property, and (c) two-thirds of all drug
114 offenses; and (iii) one-fourth of the locality's total number of days juveniles were placed in secure
115 detention.

116 2. For predispositional community-based services, three-quarters of the calculated costs as
117 determined by the following factors: (i) the statewide daily average cost evenly divided for
118 predispositional community-based residential and nonresidential services; (ii) the number of arrests of
119 juveniles based on the locality's most recent year available Uniform Crime Reports for (a) one-third of
120 all Part 1 crimes against property, (b) one-third of all drug offenses and (c) all remaining Part 2
121 arrests.

3. 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; (ii) the locality's previous year's court dispositions for all adjudicated juveniles less those 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 shall be retained by the county, city or combination thereof and subsequently expended for operating expenses of Juvenile Community Crime Control Act programs.

§ 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 rate which does not exceed the sum of the total 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 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 under this article to determine compliance with the submitted local plans and operating standards. If the Department determines that a program is not in substantial compliance with the submitted 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, appointed from a list of eligibles submitted by the State Board, and such other employees for such home as the State Board may deem necessary. 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.

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 provisions of §§ 16.1-309.6 and 16.1-309.7 shall apply only to such funds that may be appropriated in addition to amounts appropriated for fiscal year 1995 in Chapter 966 of the 1994 Acts of Assembly.