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SENATE BILL NO. 879

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee for Courts of Justice on February 20, 1995)

(Patron Prior to Substitute—Senator Miller, K. G.)

A BILL to amend and reenact §§ 16.1-249 and 16.1-269.5, as it is effective and as it may become effective, of the Code of Virginia, relating to confinement of juveniles.

Be it enacted by the General Assembly of Virginia:

1. That §§ 16.1-249 and 16.1-269.5, as it is effective and as it may become effective, of the Code of Virginia are amended and reenacted as follows:

§ 16.1-249. Places of confinement for juveniles.

A. If it is ordered that a juvenile remain in detention or shelter care pursuant to § 16.1-248.1, such juvenile 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 juvenile 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 juvenile 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, F or G 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 juvenile 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 § 16.1-269.1 and an order is entered by the circuit court in accordance with § 16.1-269.6, or in accordance with the provisions of § 16.1-270 where the juvenile has waived the jurisdiction of the district court, the juvenile, if in confinement, may be transferred to a jail or other facility for the detention of adults and need no longer be entirely separate and removed from adults.

E. If, in the judgment of the custodian, a juvenile fourteen years of age or older has demonstrated that he is a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the judge shall determine whether such juvenile should be transferred to another juvenile facility including or, if the child is fourteen years of age or older, a jail or other place of detention for 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 of Youth and Family Services Corrections for detention of juveniles.

F. If, in the judgment of the custodian, it has been demonstrated that the presence of a juvenile fourteen years of age or older in a facility creates a threat to the security or safety of the other juveniles detained or the staff of the home or facility, the custodian may transfer the juvenile to another juvenile facility, or, if the child is fourteen years of age or older, a jail or other place of detention for adults pursuant to the limitations of subdivisions E (i), (ii) and (iii) for a period not to exceed six hours.

G. If a juvenile fourteen 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 juvenile or the community, such juvenile 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 juvenile to a juvenile facility. Such room, or 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, or ward or cell is totally separate and removed from adults or juveniles transferred to the circuit court pursuant to § Article 7 (§ 16.1-269.1 et seq.) of this chapter, (ii) constant supervision is provided, and (iii) the facility is approved by the State Board of Corrections for the detention of juveniles. The State Board of Corrections is authorized and directed to prescribe minimum standards for temporary lock-up rooms, and 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.1. Any juvenile who has been ordered detained in a secure detention facility pursuant to § 16.1-248.1 may be held incident to a court hearing (i) in a court holding cell for a period not to exceed six hours provided the juvenile is separated from detained adults or (ii) in a nonsecure area provided constant supervision is provided.

H. A judge may order the predispositional detention of persons eighteen years of age or older in an

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60 adult facility, or in a juvenile facility only for a violation of the terms and conditions of release from a
61 ~~learning~~ *state juvenile correctional center.*

62 *I. The Departments of Corrections, Youth and Family Services and Criminal Justice Services shall*
63 *assist the localities or combinations thereof in implementing this section and ensuring compliance*
64 *herewith.*

65 § 16.1-269.5. Placement of juvenile.

66 The juvenile court may order placement of the transferred juvenile in either a local correctional
67 facility as approved by the State Board of ~~Youth and Family Services~~ *Corrections* pursuant to the
68 limitations of § 16.1-249 E or a juvenile detention facility.

69 § 16.1-269.5. Placement of juvenile.

70 The family court may order placement of the transferred juvenile in either a local correctional facility
71 as approved by the State Board of ~~Youth and Family Services~~ *Corrections* pursuant to the limitations
72 of § 16.1-249 E or a juvenile detention facility.