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HOUSE BILL NO. 1207

Offered January 22, 1996

A BILL to amend and reenact § 16.1-302 of the Code of Virginia, as it is currently effective and as it may become effective, relating to juvenile court hearings.

Patrons—Katzen, Kilgore, Sherwood and Wardrup

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 16.1-302 of the Code of Virginia, as it is currently effective and as it may become effective, is amended and reenacted as follows:

§ 16.1-302. Dockets, indices and order books; hearings and records private; right to public hearing; presence of juvenile in court.

Every juvenile court shall keep a separate docket of cases arising under this law.

Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate order book or file for cases on appeal from the juvenile court except: (i) cases involving support pursuant to § 20-61 or subdivisions A 3, F or L of § 16.1-241; (ii) cases involving criminal offenses committed by adults which are commenced on a warrant or a summons as described in Title 19.2; and (iii) cases involving civil commitments of adults pursuant to Title 37.1. Such cases shall be docketed on the appropriate docket and the orders in such cases shall be entered in the appropriate order book as used with similar cases commenced in circuit court.

The general public shall *not* be excluded from ~~all~~ any juvenile court hearings ~~and only such persons admitted as the judge shall deem proper, except that in~~ regarding any matter concerning a possible violation of the laws of the Commonwealth of Virginia unless the judge, in his discretion, determines all of the following: (i) that the matter pending before him is not one of public interest and concern, (ii) that one of the parties is a juvenile, and (iii) that maintaining confidentiality would further the goal of the juvenile system of rehabilitation and treatment of the juvenile before the court. In any hearing held for the purpose of adjudicating the alleged violation of any criminal law, or law defining a traffic infraction, the ~~child~~ juvenile or adult so charged shall have a right to be present and shall have the right to a public hearing unless expressly waived by such person.

The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has been charged with a traffic infraction may waive court appearance and admit to the infraction or infractions charged if he or she and a parent, legal guardian, or person standing in loco parentis to the juvenile appear in person at the court or before a magistrate or sign and either mail or deliver to the court or magistrate a written form of appearance, plea and waiver, provided that the written form contains the notarized signature of the parent, legal guardian, or person standing in loco parentis to the juvenile. An emancipated juvenile charged with a traffic infraction shall have the opportunity to waive court appearance and admit to the infraction or infractions if he or she appears in person at the court or before a magistrate or signs and either mails or delivers to the court or magistrate a written form of appearance, plea, and waiver, provided that the written plea form containing the signature of the emancipated juvenile is accompanied by a notarized sworn statement which details the facts supporting the claim of emancipated status. Whenever the sole purpose of a proceeding is to determine the custody of a ~~child~~ juvenile of tender years, the presence of such ~~child~~ juvenile in court may be waived by the judge at any stage thereof.

§ 16.1-302. (Delayed effective date) Dockets, indices and order books; hearings and records private; right to public hearing; presence of juvenile in court.

Every family court shall keep a separate docket of cases arising under this law.

Every circuit court shall keep a separate docket, index, and, for entry of its orders, a separate order book or file for cases on appeal from the family court except: (i) cases involving support pursuant to § 20-61; (ii) cases involving criminal offenses committed by adults which are commenced on a warrant or a summons as described in Title 19.2; and (iii) cases involving civil commitments of adults pursuant to Title 37.1. Such cases shall be docketed on the appropriate docket and the orders in such cases shall be entered in the appropriate order book as used with similar cases commenced in circuit court.

The general public shall *not* be excluded from ~~all~~ any family court hearings ~~and only such persons admitted as the judge shall deem proper, except that~~ (i) ~~this provision shall not apply to~~ regarding any matter concerning a possible violation of the laws of the Commonwealth of Virginia unless the judge, in his discretion, determines all of the following: (i) that the matter pending before him is not one of public interest and concern, (ii) that one of the parties is a juvenile, and (iii) that maintaining

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60 *confidentiality would further the goal of the juvenile system of rehabilitation and treatment of the*
61 *juvenile before the court. The court shall not exclude the general public under any circumstances for*
62 *cases for involving divorce, annulment or affirmation of marriage, separate maintenance, equitable*
63 *distribution based on a foreign decree, change of name, amendment of a birth certificate, or judicial*
64 *review of school board actions or of hearing officer decisions; and (ii) in. In any hearing held for the*
65 *purpose of adjudicating the alleged violation of any criminal law, or law defining a traffic infraction, the*
66 *child juvenile or adult so charged shall have a right to be present and shall have the right to a public*
67 *hearing unless expressly waived by such person.*

68 The chief judge may provide by rule that any juvenile licensed to operate a motor vehicle who has
69 been charged with a traffic infraction may waive court appearance and admit to the infraction or
70 infractions charged if he or she and a parent, legal guardian, or person standing in loco parentis to the
71 juvenile appear in person at the court or before a magistrate or sign and either mail or deliver to the
72 court or magistrate a written form of appearance, plea and waiver, provided that the written form
73 contains the notarized signature of the parent, legal guardian, or person standing in loco parentis to the
74 juvenile. An emancipated juvenile charged with a traffic infraction shall have the opportunity to waive
75 court appearance and admit to the infraction or infractions if he or she appears in person at the court or
76 before a magistrate or signs and either mails or delivers to the court or magistrate a written form of
77 appearance, plea, and waiver, provided that the written plea form containing the signature of the
78 emancipated juvenile is accompanied by a notarized sworn statement which details the facts supporting
79 the claim of emancipated status. Whenever the sole purpose of a proceeding is to determine the custody
80 of a ~~child~~ juvenile of tender years, the presence of such ~~child~~ juvenile in court may be waived by the
81 judge at any stage thereof.